

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

BRIAN J. KAREM,

Plaintiff,

v.

DONALD J. TRUMP, in his official capacity as
President of the United States and in his individual
capacity; and STEPHANIE GRISHAM, in her
official capacity as White House Press Secretary and
in her individual capacity,

Defendants.

Case No.

**DECLARATION OF THEODORE J. BOUTROUS, JR. IN SUPPORT OF
PLAINTIFF'S MOTION FOR A TEMPORARY RESTRAINING ORDER
AND PRELIMINARY INJUNCTION**

I, THEODORE J. BOUTROUS, JR., hereby declare under penalty of perjury the following:

1. My name is Theodore J. Boutrous, Jr. I am a partner with the law firm of Gibson, Dunn & Crutcher LLP and a member of the bar of this Court. I represent Plaintiff Brian Karem ("Karem") in the above-captioned action. By virtue of my direct involvement in this matter, I have personal knowledge of the content of this declaration, and I could and would competently testify to the truth of the matters stated herein.

2. Attached as **Exhibit 1** is a true and correct copy of an article by Rachel Oswald written for the National Press Club entitled "Former jailed police reporter to call for national shield law, 6 pm June 1," dated May 6, 2015, available at <https://www.press.org/news-multimedia/news/former-jailed-police-reporter-call-national-shield-law-6-pm-june-1>.

3. Attached as **Exhibit 2** is a true and correct copy of an article by Katie Rogers of *The New York Times* entitled “White House Hosts Conservative Internet Activists at a ‘Social Media Summit,’” dated July 11, 2019, available at <https://www.nytimes.com/2019/07/11/us/politics/white-house-social-media-summit.html>.

4. Attached as **Exhibit 3** is a true and correct copy of an article by Megan Vazquez, published by CNN Politics, entitled “Trump called supporter after mocking him during a rally over ‘a serious weight problem,’” dated August 16, 2019, available at <https://www.cnn.com/2019/08/16/politics/donald-trump-supporter-weight-new-hampshire-rally/index.html>.

5. Attached as **Exhibit 4** is a true and correct copy of a letter from Defendant Stephanie A. Grisham (“Grisham”) to Karem dated August 2, 2019.

6. Attached as **Exhibit 5** is a true and correct copy of a letter from me to Grisham dated August 5, 2019.

7. Attached as **Exhibit 6** is a true and correct copy of a letter from Grisham to me dated August 6, 2019.

8. Attached as **Exhibit 7** is a true and correct copy of a series of emails between Grisham and my colleagues dated August 8, 2019.

9. Attached as **Exhibit 8** is a true and correct copy of a letter from me to Grisham dated August 8, 2019.

10. Attached as **Exhibit 9** is a true and correct copy of a signed statement written by Karem to Grisham dated August 9, 2019.

11. Attached as **Exhibit 10** is a true and correct copy of a letter from Grisham to me dated August 16, 2019.

12. Attached as **Exhibit 11** is a true and correct copy of a series of emails between Karem and Grisham and Anne H. LeHardy dated July 8 to July 16, 2019.

13. Attached as **Exhibit 12** is a true and correct copy of an article by Callum Borchers of *The Washington Post* entitled “‘You’re a parent!’ Things got personal in the White House briefing room,” dated June 14, 2018, available at <https://www.washingtonpost.com/news/the-fix/wp/2018/06/14/youre-a-parent-things-got-personal-in-the-white-house-briefing-room/>.

14. Attached as **Exhibit 13** is a true and correct copy of an article by Morgan Gstalter of *The Hill* entitled “Fox News’ Jesse Watters: Reporters who act like 'a wild animal' should lose press passes,” dated June 14, 2018, available at <https://thehill.com/business-a-lobbying/392388-fox-news-jesse-watters-says-reporters-acted-like-wild-animals-for>.

15. Attached as **Exhibit 14** is a true and correct copy of an article by Karem, published in *Playboy*, entitled “An Ode to Sarah Huckabee Sanders From the Enemy,” dated June 18, 2019, available at <https://www.playboy.com/read/an-ode-to-sarah-huckabee-sanders-from-the-enemy>.

16. Attached as **Exhibit 15** is a true and correct copy of an article by Michael M. Grynbaum of *The New York Times* entitled “Donald Trump’s News Session Starts War With and Within Media,” dated January 11, 2017, available at <https://www.nytimes.com/2017/01/11/business/media/donald-trump-buzzfeed-cnn.html>.

17. Attached as **Exhibit 16** is a true and correct copy of a Tweet by President Donald J. Trump (@realDonaldTrump), dated February 17, 2017 at 4:48 p.m., available at <https://twitter.com/realDonaldTrump/status/832708293516632065>.

18. Attached as **Exhibit 17** is a true and correct copy of a Tweet by President Donald J. Trump (@realDonaldTrump), dated July 2, 2017 at 9:21 a.m., available at <https://twitter.com/realDonaldTrump/status/881503147168071680>. Embedded in the Tweet is video depicting President Trump tackling and punching a man with a CNN logo superimposed on the man's face.

19. Attached as **Exhibit 18** is a true and correct copy of a Tweet by President Donald J. Trump (@realDonaldTrump), dated December 11, 2017 at 9:17 a.m., available at <https://twitter.com/realDonaldTrump/status/940223974985871360>.

20. Attached as **Exhibit 19** is a true and correct copy of a Tweet by President Donald J. Trump (@realDonaldTrump), dated January 23, 2018 at 6:31 a.m., available at <https://twitter.com/realDonaldTrump/status/955764970590961665>.

21. Attached as **Exhibit 20** is a true and correct copy of an article by Patrick Smith of BuzzFeed News entitled "Trump Refused to Answer a Question from a CNN Reporter in a Press Conference with Theresa May," dated July 13, 2018, available at <https://www.buzzfeed.com/patricksmith/trump-refused-to-answer-a-question-from-a-cnnreporter-in-a>.

22. Attached as **Exhibit 21** is a true and correct copy of an article by Chris Cillizza of CNN entitled "The 43 most staggering lines from Donald Trump's Indiana speech," dated August 31, 2018, available at <https://www.cnn.com/2018/08/31/politics/donald-trump-evansville-speech/>.

23. Attached as **Exhibit 22** is a true and correct copy of an article by Phil McCausland of NBC News entitled “White House bans CNN reporter from Rose Garden event after she peppers Trump with tough questions on Russia, Cohen,” dated July 25, 2018, available at <https://www.nbcnews.com/politics/white-house/white-house-bans-cnn-reporter-rose-garden-event-after-she-n894686>.

24. Attached as **Exhibit 23**, contained on electronic media, is a true and correct copy of video published by C-SPAN of President Donald J. Trump’s November 7, 2018 press conference. The exchange between President Donald J. Trump and Jim Acosta can be viewed at 27:31 to 30:13.

25. Attached as **Exhibit 24** is a true and correct copy of an article by Philip Bump of *The Washington Post* entitled “Reporters tried to correct Trump’s incorrect data on immigration. It was ... not effective,” dated February 15, 2019, available at <https://www.washingtonpost.com/politics/2019/02/15/reporters-tried-correct-trumps-incorrect-data-immigration-it-was-not-effective/>.

26. Attached as **Exhibit 25** is a true and correct copy of an article by Andrew Simpson of *DCTribune* entitled “Trump Goes Ballistic, Freaks Out On Reporter Who Called Him Out On His Lies ‘Quiet, Quiet, Quiet,’” available at <http://dctribune.org/trump-goes-ballistic-freaks-out-on-reporter-who-called-him-out-on-his-lies-quiet-quiet-quiet/>.

27. Attached as **Exhibit 26** is a true and correct copy of an article by Karem published by *Playboy* entitled “On Trump’s Reaction to Mueller’s Testimony,” dated July 25, 2019, available at <https://www.playboy.com/read/mueller-testimony>.

28. Attached as **Exhibit 27** is a true and correct copy of an article by Brent D. Griffiths, published by *Politico*, entitled “Trump on Gianforte: ‘Any guy who can do a body slam is my kind of guy,’” dated October 18, 2018, available at <https://www.politico.com/story/2018/10/18/trump-gianforte-body-slam-praise-915047>.

29. Attached as **Exhibit 28** is a true and correct copy of an article by Philip Rucker and Josh Dawsey of *The Washington Post* entitled “White House bans four journalists from covering Trump-Kim dinner because of shouted questions,” dated February 27, 2019, available at https://www.washingtonpost.com/politics/white-house-bans-four-journalists-from-covering-trump-kim-dinner-because-of-shouted-questions/2019/02/27/36e1d26c-3a8d-11e9-a2cd-307b06d0257b_story.html.

30. Attached as **Exhibit 29** is a true and correct copy of an article by Lindsey Bever of *The Washington Post* entitled “‘You’re a very rude person.’ ‘That’s enough.’ ‘Sit down.’ Trump’s news conference turns hostile,” dated November 7, 2018, available at <https://www.washingtonpost.com/politics/2018/11/07/youre-very-rude-person-thats-enough-sit-down-trumps-news-conference-turns-hostile/>.

31. Attached as **Exhibit 30** is a true and correct copy of a transcript of a hearing before Judge Timothy J. Kelly in *Cable News Network, Inc. v. Trump*, No. 18-cv-2610, Dkt. No. 22 (D.D.C. Nov. 16, 2019).

32. Attached as **Exhibit 31** is a true and correct copy of a briefing statement published by the White House entitled “Remarks by President Trump Before Marine One Departure,” dated November 9, 2018, available at <https://www.whitehouse.gov/briefingsstatements/remarks-president-trump-marine-one-departure-23/>.

33. Attached as **Exhibit 32** is a true and correct copy of an article published by the BBC entitled “Trump threatens Time journalist with prison over photo,” dated June 21, 2019, available at <https://www.bbc.com/news/world-us-canada-48696131>.

34. Attached as **Exhibit 33** is a true and correct copy of a statement published by the Reporters Committee for Freedom of the Press entitled “RCFP concerned by White House’s ‘preliminary decision’ to suspend Brian Karem’s hard pass,” dated August 9, 2019, available at <https://www.rcfp.org/rcfp-statement-concerned-suspend-karem-hard-pass/>.

35. Attached as **Exhibit 34** is a true and correct copy of a statement published by the White House Correspondents Association, available at <https://whca.press/statement-on-white-house-hard-pass/>.

36. Attached as **Exhibit 35** is a true and correct copy of a transcript of a segment aired on National Public Radio, published under the title “White House Social Media Summit Recap,” dated July 13, 2018, available at <https://www.npr.org/2019/07/13/741485104/white-house-social-media-summit-recap>.

37. Attached as **Exhibit 36** is a true and correct copy of an article by Alex Pappas of Fox News entitled “Trump hosts conservative firebrands for social media summit: 'We're not going to be silenced,'” dated July 11, 2019, available at <https://www.foxnews.com/politics/white-house-hosts-social-media-summit>.

38. Attached as **Exhibit 37** is a true and correct copy of an article by Hunter Walker of *Yahoo! News* entitled “Sebastian Gorka at the center of Rose Garden ruckus following Trump event,” dated July 12, 2019, available at <https://news.yahoo.com/amphtml/sebastian-gorka-at-the-center-of-rose-garden-fracas-following-trump-event-002635804.html>.

39. Attached as **Exhibit 38** are true and correct copies of webpages embedding episodes of Karem's podcast "Just Ask the Question," published December 18, 2018, and April 11, 2019, available at <https://www.stitcher.com/podcast/just-ask-the-question/e/57795082>, and <https://www.stitcher.com/podcast/just-ask-the-question/e/59990472>, respectively.

40. Attached as **Exhibit 39** is a true and correct copy of an article by Christina Zhao of *Newsweek* entitled "Reporters in Rose Garden: Gorka Would 'Kick Your Punk Ass,'" dated July 11, 2019, available at <https://www.newsweek.com/trumps-social-media-summit-attendees-feud-reporters-rose-garden-gorka-would-kick-your-punk-1448871>.

41. Attached as **Exhibit 40** is a true and correct copy of an article by Matt Vespa of *Townhall* entitled "'You're a Punk': Dr. Sebastian Gorka Thrashes Liberal Reporter at Trump's Census Presser," dated July 11, 2019, available at <https://townhall.com/tipsheet/mattvespa/2019/07/11/youre-a-punk-dr-gorka-trashes-reporter-at-trumps-census-presser-n2549955>.

42. Attached as **Exhibit 41** is a true and correct copy of a Tweet by President Donald J. Trump (@realDonaldTrump), dated July 12, 2019 at 8:35 am, as it appears "pinned" on Sebastian Gorka's ("Gorka") Twitter profile (@SebGorka), available at <https://twitter.com/SebGorka/status/1150351166997442562>.

43. Attached as **Exhibit 42** is a true and correct copy of a Tweet by Karem (@BrianKarem), dated August 1, 2019 at 1:10 pm, available at <https://twitter.com/BrianKarem/status/1157020910005735425>. Embedded in the Tweet is video in which Karem can be heard asking President Donald J. Trump for his response to Bernie Sander's "saying [he is] a pathological liar."

44. Attached as **Exhibit 43** is a true and correct copy of an article by Steven Nelson of *The Washington Examiner* entitled “Gorka urges others to confront ‘non-journalists’ after Rose Garden clash,” dated July 12, 2019, available at <https://www.washingtonexaminer.com/news/white-house/gorka-urges-others-to-confront-non-journalists-after-rose-garden-clash>.

45. Attached as **Exhibit 44** is a true and correct copy of an article published by CBS News entitled “Lesley Stahl: Trump admitted mission to ‘discredit’ press,” dated May 23, 2018, available at <https://www.cbsnews.com/news/lesley-stahl-donald-trump-said-attacking-press-to-discredit-negative-stories/>.

46. Attached as **Exhibit 45** is a true and correct copy of an article by Jim Rutenberg of *The New York Times* entitled “In Revoking Press Credentials, Trump Casts Himself as Punisher in Chief,” dated June 14, 2016, available at <https://www.nytimes.com/2016/06/15/business/media/donald-trump-washington-post.html>.

47. Attached as **Exhibit 46** is a true and correct copy of an article by Karem, published by *Playboy*, entitled “Fact: Trump is a Racist,” dated July 23, 2019, available at <https://www.playboy.com/read/why-has-unity-become-such-a-contentious-value-to-hope-for>.

48. Attached as **Exhibit 47** is a true and correct copy of an article by Karem, published by *Playboy*, entitled “Donald Trump Uses Faith to Fool Everyone,” dated May 7, 2019, available at <https://www.playboy.com/read/national-day-of-prayer-how-donald-trump-uses-faith-to-fool-everyone>.

49. Attached as **Exhibit 48** is a true and correct copy of an article by Brian Stelter of CNN entitled “Donald Trump: I won’t kick reporters out of White House press briefing room,” dated June 14, 2016, available at <https://money.cnn.com/2016/06/14/media/donald-trump-presscredentials-access/index.html>.

50. Attached as **Exhibit 49** is a true and correct copy of an article by Michael Finnegan and Noah Bierman of the *Los Angeles Times* entitled “Trump’s endorsement of violence reaches new level: He may pay legal fees for assault suspect,” dated March 13, 2016, available at <https://www.latimes.com/politics/la-na-trump-campaign-protests-20160313-story.html>.

51. Attached as **Exhibit 50** is a true and correct copy of an article published by CNBC entitled “Trump praises Montana congressman who body-slammed reporter,” dated October 19, 2018, available at <https://www.cnn.com/2018/10/19/trump-praises-montana-congressman-who-body-slammed-reporter.html>.

52. Attached as **Exhibit 51** is a true and correct copy of a Tweet by President Donald J. Trump (@realDonaldTrump), dated January 24, 2017 at 9:16 p.m., available at <https://twitter.com/realdonaldtrump/status/824078417213747200>.

53. Attached as **Exhibit 52** is a true and correct copy of a Tweet by President Donald J. Trump (@realDonaldTrump), dated February 15, 2017 at 6:40 a.m., available at <https://twitter.com/realdonaldtrump/status/831830548565852160>.

54. Attached as **Exhibit 53** is a true and correct copy of a Tweet by President Donald J. Trump (@realDonaldTrump), dated June 2, 2018 at 12:46 p.m., available at <https://twitter.com/realdonaldtrump/status/1002954515941941249>.

55. Attached as **Exhibit 54** is a true and correct copy of a Tweet by President Donald J. Trump (@realDonaldTrump), dated August 8, 2018 at 7:04 a.m., available at <https://twitter.com/realdonaldtrump/status/1024974107337781248>.

56. Attached as **Exhibit 55**, contained on electronic media, is a true and correct copy of video published by NBC News of an exchange between Karem and Sarah Huckabee Sanders that took place during a June 14, 2018 White House press briefing.

57. Attached as **Exhibit 56** is a true and correct copy of an article by Karem, published in *Playboy*, entitled “Why I Pressed Sarah Huckabee Sanders About Empathy in the White House,” dated June 18, 2019, available at <https://www.playboy.com/read/why-i-probed-sarah-huckabee-sanders-about-empathy-in-the-white-house>.

58. Attached as **Exhibit 57** is a true and correct copy of an article by Karem, published in *Playboy*, entitled “White House Correspondent Brian Karem Responds to Acosta Ban,” dated November 12, 2018, available at <https://www.playboy.com/read/worry-not-jim-i-ll-never-stop-asking-the-president-questions>.

59. Attached as **Exhibit 58** is a true and correct copy of an article by Karem, published in *Playboy*, entitled “A Moment of Crisis and Enlightenment,” dated May 20, 2019, available at <https://www.playboy.com/read/i-hope-not>.

60. Attached as **Exhibit 59** is a true and correct copy of an article by Karem, published in *Playboy*, entitled “Brian Karem on Seb Gorca: We Must Stand Up to the Bullies,” dated July 15, 2019, <https://www.playboy.com/read/brian-karem-seb-gorca-playboy>.

61. Attached as **Exhibit 60**, contained on electronic media, is a true and correct copy of video published by Bloomberg TicToc recorded from the White House Rose Garden on July 11, 2019, available at <https://www.youtube.com/watch?v=VNfPaZ4Ipsw>.

62. Attached as **Exhibit 61**, contained on electronic media, is a true and correct copy of video published on YouTube recorded from the White House Rose Garden on July 11, 2019, available at https://www.youtube.com/watch?v=P_6vDLq64gE.

63. Attached as **Exhibit 62**, contained on electronic media, is a true and correct copy of video published on YouTube recorded from the White House Rose Garden on July 11, 2019, available at <https://www.youtube.com/watch?v=qQe2JFS08Rg>.

64. Attached as **Exhibit 63**, contained on electronic media, is a true and correct copy of video published on YouTube recorded from the White House Rose Garden on July 11, 2019, available at <https://www.youtube.com/watch?v=mNySuQFh2YE>.

65. Attached as **Exhibit 64**, contained on electronic media, is a true and correct copy of video published by *The Washington Examiner* on Twitter recorded from the White House Rose Garden on July 11, 2019, available at <https://twitter.com/dcexaminer/status/1149451612227887104>.

66. Attached as **Exhibit 65**, contained on electronic media, is a true and correct copy of video published by Reuters on Twitter recorded from the White House Rose Garden on July 11, 2019, available at <https://twitter.com/Reuters/status/1149445607288950784>.

67. Attached as **Exhibit 66**, contained on electronic media, is a true and correct copy of video published by *The Washington Post* on YouTube recorded from the White House Rose Garden on July 11, 2019, available at <https://www.youtube.com/watch?v=mNySuQFh2YE>.

68. Attached as **Exhibit 67**, contained on electronic media, is a true and correct copy of video published on YouTube by Gorka on July 12, 2019, available at <https://www.youtube.com/watch?v=rl7QO0Ird9A>.

69. Attached as **Exhibit 68**, contained on electronic media, is a true and correct copy of video published by CNN of Karem's account of "the legacy of Sarah [Huckabee] Sanders."

70. Attached as **Exhibit 69** is a true and correct copy of a Tweet by Sebastian Gorka (@SebGorka), dated July 11, 2019 at 3:12 pm, available at <https://twitter.com/sebgorka/status/1149441323067478016>.

71. Attached as **Exhibit 69A**, contained on electronic media, is a true and correct copy of video embedded in a Tweet by Sebastian Gorka (@SebGorka), dated July 11, 2019 available at <https://twitter.com/sebgorka/status/1149441323067478016>.

72. Attached as **Exhibit 70**, contained on electronic media, is a true and correct copy of video recorded on a smartphone showing Sebastien Gorka taking a photo in the White House Rose Garden on July 11, 2019.

73. Attached as **Exhibit 71** is a true and correct copy of an article by Peter Baker, published by *The New York Times*, entitled "Trump Bars CNN's Jim Acosta From the White House," dated November 7, 2018, available at <https://www.nytimes.com/2018/11/07/us/politics/trump-cnn-acosta-white-house.html>.

74. Attached as **Exhibit 72** is a true and correct copy of an article by Jordan Fabian and Brett Samuels, published by *The Hill*, entitled "Trump: I told Sanders to stop briefings because press covers 'rudely,'" dated January 22, 2019, available at <https://thehill.com/homenews/administration/426394-trump-i-told-sanders-to-stop-briefings-because-press-covers-her>.

75. Attached as **Exhibit 73** is a true and correct copy of an article by David Jackson, published by *USA Today*, entitled "Donald Trump says he may revoke press credentials for other reporters, not just CNN's Jim Acosta," dated November 9, 2018, available at

<https://www.usatoday.com/story/news/politics/2018/11/09/donald-trump-threatens-other-reporters-white-house-press-passes/1942013002/>.

76. Attached as **Exhibit 74** is a true and correct copy of an article by Mathew Ingram, published by the Columbia Journalism Review, entitled “White House revokes press passes for dozens of journalists,” dated May 9, 2019, available at https://www.cjr.org/the_media_today/white-house-press-passes.php.

77. Attached as **Exhibit 75** is a true and correct copy of an article by Paul Farhi, published by *The Washington Post*, entitled “White House imposes new rules on reporters’ credentials, raising concerns about access,” dated May 8, 2019, available at https://www.washingtonpost.com/lifestyle/style/white-house-imposes-new-rules-on-reporters-credentials-raising-concerns-about-access/2019/05/08/793dc404-71dd-11e9-9eb4-0828f5389013_story.html.

78. Attached as **Exhibit 76** is a true and correct copy of an article published by the U.S. Press Freedom Tracker, entitled “Former White House aide Seb Gorka shoves Mediaite reporter at CPAC,” dated February 23, 2018, available at <https://pressfreedomtracker.us/all-incidents/former-white-house-aide-seb-gorka-shoves-mediaite-reporter-cpac/>.

79. Attached as **Exhibit 77** is a true and correct copy of an article by Caleb Ecarma, published by Mediaite, entitled “Seb Gorka Just Challenged Me to a Fight Over Email and I Accepted,” dated November 4, 2017, available at <https://www.mediaite.com/online/seb-gorka-just-challenged-me-to-a-fight-over-email-and-i-accepted/>.

80. Attached as **Exhibit 78** is a true and correct copy of an article by Caleb Ecarma, published by Mediaite, entitled “Ex-Trump Advisor Sebastian Gorka Reportedly Wanted on Gun

Charges in Hungary,” dated January 18, 2018, available at <https://www.mediaite.com/online/ex-trump-adviser-sebastian-gorka-reportedly-wanted-on-gun-charges-in-hungary/>.

81. Attached as **Exhibit 79** is a true and correct copy of an article by Jonathan Swan, published by Axios, entitled “Trump’s favorite new TV defender: Sebastian Gorka,” dated July 13, 2017, available at <https://www.axios.com/trumps-favorite-new-tv-defender-sebastian-gorka-1513304178-55c34e6e-1802-4ab0-a539-9d2c70d6860e.html>.

82. Attached as **Exhibit 80** is a true and correct copy of an article by Pamela Engel, published by Business Insider, entitled “Sebastian Gorka, Trump’s combative new national security aide, is widely disdained within his own field,” dated February 22, 2017, available at <https://www.businessinsider.com/sebastian-gorka-trump-bio-profile-2017-2>.

83. Attached as **Exhibit 81** is a true and correct copy of an article by Andrew Blake, published by *The Washington Times*, entitled “Sebastian Gorka, former Trump advisor, placed on White House ‘Do Not Admit’ list: Report”, dated August 29, 2017, available at <https://www.washingtontimes.com/news/2017/aug/29/sebastian-gorka-former-trump-advisor-placed-white-/>.

84. Attached as **Exhibit 82** is a true and correct copy of an article by Oliver Knox and Hunter Walker, published by the Huffington Post, entitled “Report: Kelly Revoked Gorka’s Security Clearance While He Was On Vacation,” dated August 25, 2017, available at https://www.huffpost.com/entry/gorka-security-clearance-revoke_n_59a0eb66e4b06d67e337bcd.

85. Attached as **Exhibit 83** is a true and correct copy of an article by Matthew Rozsa, published by *Salon*, entitled “Reminder: James O’Keefe has a history of failing to discredit journalists,” dated November 28, 2017, available at

<https://www.salon.com/2017/11/28/reminder-james-okeefe-has-a-history-of-failing-to-discredit-journalists/>.

86. Attached as **Exhibit 84** is a true and correct copy of an article by Kevin Robillard, published by *Politico*, entitled “O’Keefe agrees to fork over \$100K,” dated March 8, 2013, available at <https://www.politico.com/story/2013/03/james-okeefe-agrees-to-pay-100000-settlement-088620>.

87. Attached as **Exhibit 85** is a true and correct copy of an article by Katie Rogers and Maggie Haberman, published by *The New York Times*, entitled “Donald Trump Jr. Shares, Then Deletes, a Tweet Questioning Kamala Harris’s Race,” dated June 28, 2019, available at <https://www.nytimes.com/2019/06/28/us/politics/donald-trump-jr-kamala-harris.html>.

88. Attached as **Exhibit 86** is a true and correct copy of an article by Davis Richardson, published by *The Observer*, entitled “Robert Mercer Bankrolled PAC Advised By Notorious Fringe ‘Philosopher’ Ali Alexander”,” dated October 30, 2018, available at <https://observer.com/2018/10/robert-mercero-bankrolled-pac-ali-alexander/>.

89. Attached as **Exhibit 87** is a true and correct copy of an article by Paul Farhi, published by *The Washington Post*, entitled “What is Gateway Pundit, the conspiracy-hawking site at the center of the bogus Florida ‘crisis actors’ hype?” Dated February 23, 2018, available at https://www.washingtonpost.com/lifestyle/style/what-is-gateway-pundit-the-conspiracy-hawking-site-at-the-center-of-the-bogus-florida-crisis-actors-hype/2018/02/23/dded562a-174e-11e8-b681-2d4d462a1921_story.html.

90. Attached as **Exhibit 88** is a true and correct copy of an article by Meredith Woerner, published by *Variety*, entitled “Pro-Trump Fashion at 2019 Grammys: From Border Wall Dress to ‘Keep America Great’ Jacket,” dated February 10, 2019, available at

<https://variety.com/2019/music/news/pro-trump-fashion-joy-villa-dress-ricky-rebel-grammys-2019-1203134993/>.

91. Attached as **Exhibit 89** is a true and correct copy of a Tweet by President Donald J. Trump (@realDonaldTrump), dated August 16, 2019 at 8:11 p.m., available at <https://twitter.com/realDonaldTrump/status/1162562469283471360>.

92. Attached as **Exhibit 90** is a true and correct copy of an article by Alex Kaplan, published by Media Matters, entitled “Here are the extremist figures going to the White House social media summit,” dated July 9, 2019, available at <https://www.mediamatters.org/donald-trump/here-are-extremist-figures-going-white-house-social-media-summit>.

93. Attached as **Exhibit 91** is a true and correct copy of a Tweet by Sarah Sanders (@PressSec), dated November 7, 2018 at 7:48 p.m., available at <https://twitter.com/pressec/status/1060333176252448768>. The Tweet was posted by Sarah Sanders while she was still White House Press Secretary.

94. Attached as **Exhibit 92** is a true and correct copy of a Tweet by Sarah Sanders (@PressSec), dated November 7, 2018 at 7:50 p.m., available at <https://twitter.com/pressec/status/1060333619728801792>. The Tweet was posted by Sarah Sanders while she was still White House Press Secretary.

95. Attached as **Exhibit 93** is a true and correct copy of an article by Margaret Sullivan, published by *The Washington Post*, entitled “Trump joking with Putin over eliminating journalists is a betrayal of America, So is ignoring it,” dated June 28, 2019, available at https://www.washingtonpost.com/lifestyle/style/trumps-jokes-with-putin-over-eliminating-journalists-is-a-betrayal-of-america-so-is-ignoring-it/2019/06/28/b7ada93a-99be-11e9-916d-9c61607d8190_story.html.

96. Attached as **Exhibit 94** is a true and correct copy of an article by Erik Wemple, published by *The Washington Post*, entitled “ ‘Virtual act of Treason’: The New York Times is Blowing Trump’s mind,” dated June 17, 2019, available at <https://www.washingtonpost.com/opinions/2019/06/17/virtual-act-treason-new-york-times-is-blowing-trumps-mind/>.

97. Attached as **Exhibit 95** is a true and correct copy of President Trump’s remarks made at the July 11 White House Social Media Summit, dated July 11, 2019, available at <https://www.whitehouse.gov/briefings-statements/remarks-president-trump-presidential-social-media-summit/>.

98. Attached as **Exhibit 96** is a true and correct copy of an article by Stephanie Sugars, published by the Committee to Protect Journalists, entitled “From Fake new to enemy of the people: An Anatomy of Trump’s tweets,” dated January 30, 2019, available at <https://cpj.org/blog/2019/01/trump-twitter-press-fake-news-enemy-people.php>.

99. Attached as **Exhibit 97** is a true and correct copy of an article by Iliana Magra, published by *The New York Times*, entitled “BBC Cameraman Is Attacked at Trump Rally,” dated February 12, 2019, available at <https://www.nytimes.com/2019/02/12/us/politics/bbc-cameraman-attacked.html>.

100. Attached as **Exhibit 98** is a true and correct copy of an article published by Reporters without Borders, entitled “Attendee at Trump rally arrested for assaulting Orlando Sentinel reporter,” dated July 24, 2019, available at <https://rsf.org/en/news/us-weeklyaddress-june-17-june-23-attendee-trump-rally-arrested-assaulting-orlando-sentinel-reporter>.

101. Attached as **Exhibit 99** is a true and correct copy of an article by Meg Wagner, Sophie Tatum, Eric Levenson, Brian Ries, Paul P. Murphy, and Jessie Yeung, published by CNN Politics, entitled “ Suspect arrested after sending explosive devices sent to Trump critics and CNN,” dated November 5, 2018, available at <https://www.cnn.com/politics/live-news/clintons-obama-suspicious-packages/index.html>.

102. Attached as **Exhibit 100** is a true and correct copy of an article by Press Association and Press Gazette, published by *Press Gazette*, entitled “UN expert claims Donald Trump’s attacks on the media ‘increase risk of journalists being targeted with violence,’” dated August 3, 2018, available at <https://pressgazette.co.uk/un-expert-claims-donald-trumps-attacks-on-the-media-increase-risk-of-journalists-being-targeted-with-violence/>.

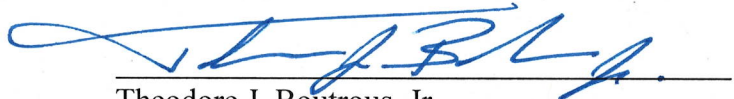
103. Attached as **Exhibit 101** is a true and correct copy of a Tweet by Peter Alexander (@PeterAlexander) dated August 15, 2019 at 4:53 p.m., available at <https://twitter.com/PeterAlexander/status/1162150271704850434>.

104. Attached as **Exhibit 102** is a true and correct copy of an article by Nick Corasaniti, published by *The New York Times*, entitled “Partisan Crowds at Trump Rallies Menace and Frighten News Media,” dated October 14, 2016, available at <https://www.nytimes.com/2016/10/15/us/politics/trump-media-attacks.html>.

105. Attached as **Exhibit 103** is a true and correct copy of a Tweet by President Donald J. Trump (@realDonaldTrump), dated August 18, 2019 at 5:22 a.m., available at <https://twitter.com/realDonaldTrump/status/1163063728218263552>.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 19th day of August 2019 in Los Angeles, California.



Theodore J. Boutrous, Jr.

Exhibit 1

THE NATIONAL PRESS CLUB

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Former jailed police reporter to call for national shield law, 6 pm June 1

May 6, 2015 | By Rachel Oswald | rachelm.oswald@gmail.com

A local longtime journalist, who was jailed because he would not give up the identity of a source, will call for a federal shield law at a National Press Club forum at 6 p.m., Monday, June 1, in the Murrow Room.

The two-hour symposium is open to the public and is sponsored in part by the Club's Journalism Institute and Freedom of the Press Committee. **Tickets** are \$5 for Club members and \$10 for nonmembers.

Brian Karem, the executive editor of two weekly Maryland newspapers, will moderate the event, which will feature roughly a dozen American journalists who have all gone the extra mile in protecting the identities of their anonymous sources -- facing down expensive fines and even serving jail time.

Karem, a 1991 recipient of the Club's annual national Freedom of the Press Award, said the idea to organize next month's event came as he was watching HBO's "The Newsroom." When the show's protagonist, played by Jeff Daniels, was jailed for contempt of court for refusing to reveal who had provided him with sensitive documents, Karem said he was bothered by the way the show failed to accurately portray what the whole experience had been like.

"I won't wear orange to this day because of my experience," said Karem, who 25 years ago was jailed for refusing to name a confidential source.

In March 1989, Karem was working in San Antonio, Texas, as a police reporter for an NBC affiliate, KMOL-TV. During an overnight shift, Karem caught the story of a white police officer who was killed with his own weapon following a struggle with two young Hispanic men.

Karem was able to land an interview with one of the suspects, who confessed to the shooting but told him it was in self-defense because the officer was acting physically aggressive. A subsequent autopsy of the officer's body revealed the presence of cocaine and heroin.

"Of course, I was immediately subpoenaed for my notes and the tape," Karem said. "We gave over some tape but I refused to give my notes and refused to name the people who helped facilitate the jailhouse interview."

Karem insisted on his First Amendment protections all the way to the Supreme Court, but the court declined to hear his case. In summer 1990, Karem, then just 29, ended up spending two weeks in jail.

"At that point, two of the sources had already come forward because they were members of law enforcement," Karem said. "The third source came forward because he had moved away from Texas."

In the years since, Karem has testified in a number of states and local jurisdictions about the need for stronger legal protections for reporters and has campaigned for a national shield law. Though Texas has a shield law, it was not enough to protect Karem because the case was a criminal one.

In organizing next month's symposium, Karem said he was struck by how similar the experiences were of his fellow "jailbird" reporters.

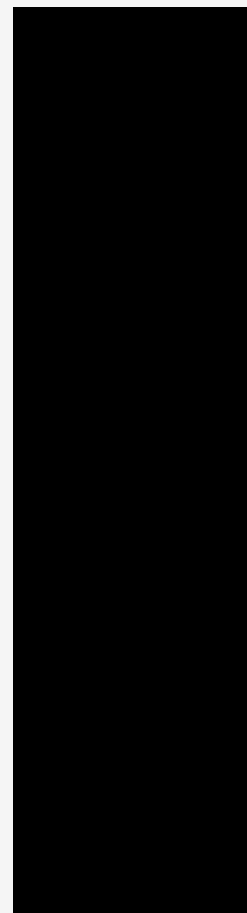
"It's funny that everyone who put us in jail told us how much they supported the First Amendment, just not in our case," he said, adding he was also troubled by how "little solidarity" other news publications showed to him and the other jailed reporters during their time of need. "We don't seem to come together on these issues."

The symposium is sponsored by The National Press Club Journalism Institute, The Reporters Committee for the Freedom of the Press, The First Amendment Coalition, Expose Facts.Org, The Maryland Delaware District of Columbia Press Association and the Institute for Public Accuracy.

For more information about the event, please contact Nicole Hoffman at nhoffman@press.org.



Brian Karem, a journalist who was once jailed for protecting a source, will moderate a National Press Club forum on June 1, where he will call for a federal shield law.



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Exhibit 2

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White House Hosts Conservative Internet Activists at a 'Social Media Summit'



President Donald Trump addressed attendees at Thursday's social media summit at the White House. Doug Mills/The New York Times

By Katie Rogers

Jul 11, 2019

WASHINGTON — As he opened an event that had brought 200 conservative social media firebrands to the White House, President Trump wanted his guests to know just how much he appreciated their work helping shape the online narrative about his presidency and a re-election fight.

“The crap you think of,” Mr. Trump said as he surveyed his Twitter kingdom, “is unbelievable.”

Mr. Trump was once an outsider political candidate who prided himself on bending rules and subverting norms, and he wants to keep that sensibility as a candidate in 2020. So on Thursday, the president went in search of outside-the-box campaign ideas from a group that also has little use for playing by the rules.

Sandwiched between a flurry of morning presidential tweets and bleeding into Mr. Trump's early evening news conference on how his administration would collect data on citizenship, the White House Social Media Summit was dominated by activists willing to share unverified smears against Democratic presidential candidates, disseminate QAnon conspiracy theories and create memes the president might share.

"Earlier this year, the White House launched a tool to allow Americans, regardless of their political views, to share how they have been affected by bias online," Judd Deere, a White House spokesman, said in an email explaining the origins of the event. "After receiving thousands of responses, the president wants to engage directly with these digital leaders in a discussion on the power of social media."

That's really not what happened.

Before all was said and done, the East Room event, which featured a rambling speech by Mr. Trump on everything from Federal Reserve policy to his hairstyle, devolved into a confrontation in the Rose Garden after the presidential news conference between Sebastian Gorka, the former White House official turned media personality, and a reporter. James O'Keefe, an activist who likes to capture videos under false pretenses to embarrass liberals and journalists, filmed the scene.

The reporter, Brian Karem of Playboy, said that the group was hungry for "demonic possession." Mr. Gorka questioned his journalistic credentials and approached Mr. Karem, who suggested the two talk outside.

"Gorka! Gorka! Gorka!" his supporters chanted as Mr. Gorka called the journalist a "punk."

[Read [our reporter's Twitter coverage](#) of the event.]



An attendee took a photo as President Donald Trump spoke during the “Presidential Social Media Summit” at the White House on Thursday. Evan Vucci/Associated Press

Another activist, Joy Villa, preened in the background in a floor-length red gown emblazoned with the word “freedom.” “Fake news is over!” Ms. Villa shouted amid the melee, before talking about who designed her gown.

Other supporters who had made the journey from the internet’s backwaters to the White House included “Carpe Donktum,” who created a fake video of former Vice President Joseph R. Biden Jr. that Mr. Trump shared on Twitter. There was also Bill Mitchell, who enjoys discussing QAnon, an online conspiracy theory that purports to share government secrets. And there was Ali Alexander, who shared a tweet questioning Kamala Harris’s racial background.

Ostensibly, the entire exercise was a chance for Mr. Trump to hear grievances from his supporters. That is what some of them said, anyway. Charlie Kirk, the 25-year-old founder of Turning Point USA, a group that reaches out to young conservatives, said before the event that he was going into it with a “center right” view on how the president should search for

evidence that social media platforms were silencing conservative voices.

Mr. Kirk and members of his organization have been [criticized by the Southern Poverty Law Center](#) for tweets that contained anti-immigrant or racist views.

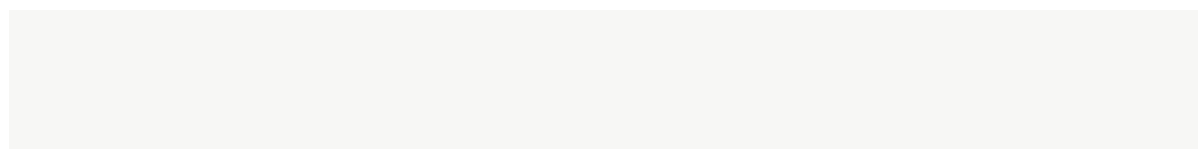
“I think that’s a positive thing that the president is hearing new ideas and entertaining difference of opinion” and seeing if he could use his power to tackle conservatives’ complaints, Mr. Kirk said.

The president and his supporters feel as though their voices have been silenced by platforms like Twitter, Facebook and Google, while making the somewhat confounding argument that their efforts are indeed covered breathlessly in the news media, but just not to their liking.

Weeks ago, the president and his social media director, Dan Scavino, hatched the idea to hold the event. The White House created a website that was meant to capture evidence of Google, Twitter and Facebook suppressing conservative voices. In the end, representatives of all three were left off the guest list.

“At a time when social media platforms are banning conservative voices and supporters of the president,” said Brad Parscale, the president’s 2020 campaign manager, “it’s important for President Trump to emphasize that he appreciates their support and wants to protect their First Amendment rights.”

Mr. Trump treated his audience to an unusually detailed look into one of the hallmarks of his presidency — his tweets. He said they were intended to kick-start a new news cycle, and lately he was wondering why he seemed to notice lower engagement numbers. Could something more nefarious be afoot?



President Donald Trump hugged conservative social media figure Rochelle Richardson, known as Silk of "Diamond and Silk," as she and Lynnette Hardaway, known as Diamond, joined him on stage during his social media summit on Thursday. Carlos Barria/Reuters

"I used to watch it like a rocket ship when I put out a beauty," Mr. Trump said, waxing poetic about those early days running the Twitter account as president. Recounting a tweet accusing President Barack Obama of wiretapping his office, he said: "Remember I said somebody was spying on me? That was like a rocket."

Mr. Trump had special praise for his golf caddie turned social media impresario. Once upon a time, Mr. Trump noticed that Mr. Scavino — "My Dan," as he called him — loved to stare at his computer screen all day long. These days, he said, Mr. Scavino works directly with many of the president's digital supporters, who send him content that he then runs by the president in the Oval Office. That summary was pretty much open confirmation of the White House's slapdash social media system.

"He works about 28 hours a day," Mr. Trump said, "working with all of you, many of you."

In between complaining about houseflies — "I don't like flies!" — and talking about his hair, Mr. Trump gave his own unique interpretation of the First Amendment.

"To me free speech is not when you see something good and then you purposely write bad," Mr. Trump said, describing the kind of thing the First Amendment is meant to protect. "To me that's very dangerous speech, and

Not surprisingly, the whole concept of the event alarmed the president's critics.

Madihha Ahussain, a lawyer with Muslim Advocates, a nonprofit legal and advocacy organization, described it as a ruse.

"Enforcing basic standards of decency on social media isn't censoring conservative speech," Ms. Ahussain said in a statement. "Hate speech is hate speech, regardless of whether the person spewing it has met with the president."

She added, "We urge social media platforms to ignore the circus at the White House and instead commit to enforcing their hate-content policies objectively and forcefully."

Thomas Melia, the Washington director of the PEN American Center, a nonprofit organization that advocates press freedom and advancement of literature, said the United States needed "high-level dialogues" about the role of private companies in the practice of content moderation and drafting terms-of-service policies.

The White House, Mr. Melia said, was not the place for this on Thursday.

"Sadly," he said, "today's gathering entirely misses the mark with its highly politicized guest list that excludes important voices and includes conspiracy peddlers and purveyors of false information who might more rightly be viewed as part of the problem."

Correction: Jul 12, 2019

A caption with an earlier version of this article misidentified a woman taking a photo during the president's speech at the White House Social Media Summit as the right-wing activist Laura Loomer; Ms. Loomer was not in attendance.

A version of this article appears in print on , Section A, Page 14 of the New York edition with the headline: In

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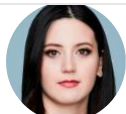
Exhibit 3

Trump called supporter after mocking him during a rally over 'a serious weight problem'



politics

• LIVE TV



By [Maegan Vazquez](#), CNN

Updated 1:19 PM ET, Fri August 16, 2019

Washington (CNN) — [President Donald Trump](#) phoned a supporter [he mocked as overweight](#) during Thursday's New Hampshire rally and left a message, according to a senior administration official.

Trump mocked the man while delivering remarks from the podium during his rally in a Manchester arena, apparently confusing him for a protester.

"That guy's got a serious weight problem," Trump said as the man escorted out several protesters. "Go home. Start exercising."



Related Article: Man reconciles with Trump supporter who punched him at rally

"Get him out of here please. Got a bigger problem than I do," the President joked. "Got a bigger problem than all of us. Now he goes home and his mom says, 'What the hell have you just done?'"

After the rally, the senior administration official said, Trump got the man's name and contact information from a campaign aide and called him from Air Force One. He left the man a voicemail, the official said.

The man Trump appeared to criticize, Frank Dawson, told Fox News after the rally, "Everything's good, I love the guy. He's the best thing that ever happened to this country."

Dawson said the President "didn't see me rip the signs away from" protesters seated nearby. "It wasn't going to happen beside me because I'm trying to listen to my President," he added.

This isn't the first time Trump has heckled protesters at his rallies.

At one rally in 2016, he [mocked](#) a protester for wearing a turban and at another, he said one protester was so young he was "still wearing diapers." He also said [he'd like to punch a protester in the face](#), adding that "in the old days" protesters would be "carried out on stretchers."

"We're not allowed to push back anymore," he added.

More recently, at a 2018 rally, he questioned whether a protester he spotted was a man or a woman.

"Was that a man or a woman? Because he needs a haircut more than I do," Trump said. "I couldn't tell. Needs a haircut."

CNN's Sarah Westwood, Joe Johns and Nikki Carvajal contributed to this report.



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• [LIVE TV](#) 

Exhibit 4

THE WHITE HOUSE

WASHINGTON

August 2, 2019

Dear Mr. Karem:

I am writing to give you notice that I have made a preliminary decision to suspend your hard pass for 30 days due to your conduct at the press event in the Rose Garden on July 11, 2019. The President is aware of this preliminary decision and concurs. The factual basis for this preliminary decision to suspend your pass is as follows:

As you know, President Trump has provided an extraordinary amount of access to journalists to ask questions. The White House has issued written rules of conduct governing questions at press conferences, but had not previously thought that a set of explicit rules was necessary to govern behavior by members of the press at White House press events. That is because it had previously been a widely shared understanding that (1) members of the press, at all times at White House press events, must act professionally, maintain decorum and order, and obey instructions from White House staff, and (2) disruptive behavior that interferes with the conduct of a press event or is otherwise a breach of professional decorum—including but not limited to taunting other members of the press, White House officials, or guests in an effort to provoke a confrontation—is prohibited. Such basic guidelines for behavior are necessary for orderly press events that are fair to everyone in attendance.

On July 11, 2019, you failed to abide by these basic norms ensuring decorum and order. As several video recordings show,¹ after the conclusion of the President's address in the Rose Garden to invited guests of the White House Social Media Summit, and as the invited guests were leaving, you openly insulted the President's invited guests, stating that "This is a group of people that are eager for demonic possession." One of the President's invited guests, Sebastian Gorka, then asked, "And you're a journalist, right?" In response, you verbally accosted Mr. Gorka in an apparent attempt to escalate your verbal taunts to a physical confrontation, stating "Come on over here and talk to me brother. Or we can go outside and have a long conversation." Mr. Gorka then approached you, asking "Are you threatening me now in the White House? In the Rose Garden? Are you threatening me in the Rose Garden?" You and Mr. Gorka then loudly traded insults nose to nose, and Mr. Gorka left. You did not leave, and instead continued to engage with the President's invited guests. Even after the U.S. Secret Service agent intervened, you continued to engage with and shout at other invited guests. As also recorded on video,² after leaving the Rose Garden, you found, approached, and tried to again engage Mr. Gorka, ignoring a White House staffer's repeated directions to leave and instructions that "the press are leaving now." You eventually left after Mr. Gorka rebuffed you by repeatedly telling you that you were "done."

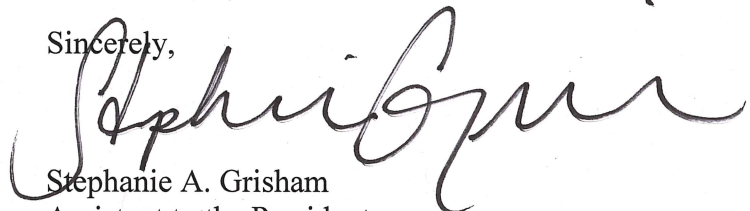
¹ See, e.g., https://www.youtube.com/watch?time_continue=208&v=mNySuQFh2YE;https://twitter.com/Reuters/status/1149445607288950784.

² See, e.g., https://www.youtube.com/watch?time_continue=208&v=mNySuQFh2YE.

Your disruptive behavior at the press event in the Rose Garden on July 11, 2019 violated the basic standards governing such events and is, in our preliminary judgment, sufficient factual basis to suspend your hard pass for 30 days. Your gross breach of decorum and disruption of the orderly functioning of a White House press event cannot be tolerated, and we have preliminarily concluded that a 30 day suspension of your hard pass is an appropriate response.

While this is my preliminary decision, we would be pleased to consider any material you would like to submit in response. If you wish to contest this preliminary decision, please submit a written response to me via email by 5:00 PM on Monday, August 5, 2019. If you do not submit a response by that time, this preliminary decision will become final. I am happy to consider that response and any other materials you would like to submit before I make a final decision in this matter. If you choose to make a submission, I will consider your written response and will issue a final determination in writing by 5:00 PM on August 7, 2019.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Steph A. Grisham', written in a cursive style.

Stephanie A. Grisham
Assistant to the President
White House Press Secretary

Exhibit 5

August 5, 2019

Ms. Stephanie Grisham
Assistant to the President
White House Press Secretary
The White House
1600 Pennsylvania Avenue NW
Washington, D.C. 20500

Dear Ms. Grisham,

We write on behalf of our client, Brian Karem, who serves as the White House correspondent for Playboy, in response to your August 2, 2019 letter informing him of your “preliminary decision” to suspend his hard pass for 30 days, supposedly “due to [his] conduct at the press event in the Rose Garden on July 11, 2019,” and giving him one business day to submit a response before you “make a final decision in this matter.” We object to this arbitrary and unfair procedure threatening to deprive Mr. Karem of his constitutionally protected liberty and property interests in his hard pass, which would flatly violate the First Amendment and the Due Process Clause and the principles established by the D.C. Circuit’s decision in *Sherrill v. Knight*, 569 F.2d 124 (D.C. Cir. 1977) and many other cases. Your invocation of the Rose Garden event weeks after it occurred and without any notice whatsoever that you were considering taking action against Mr. Karem is the opposite of due process, and is clearly a pretext for punishing Mr. Karem based on his viewpoint and the content of his reporting on President Trump.¹

As Press Secretary to the President of the United States, you have the privilege to be in a position to protect freedom of the press, and to ensure that our nation’s journalists have the ability to gather and report to the American people news about the President and the White House. But this Administration’s unprecedented and unconstitutional attempts to convert the hard pass system into a means of censoring and penalizing the press charts a dangerous path that we hope you will reconsider.

¹ While we are submitting this response within the unreasonable deadline you set in your letter, we also request that you provide additional information relating to the decision, including any and all communications with Sebastian Gorka. We would also appreciate the chance to meet with you to discuss these issues prior to your making a final determination.

Ms. Stephanie Grisham
August 5, 2019
Page 2

I. Background

Mr. Karem is Playboy's senior White House correspondent, a political analyst for CNN, and the current president of the Maryland, Delaware, District of Columbia Press Association. He is a highly respected, award-winning journalist with a long history of standing up for press freedom. In 1990, he was jailed for contempt of court after refusing to disclose the name of confidential sources who helped him arrange a telephone interview with a jailed murder suspect, after which he won the National Press Club's Freedom of the Press award. He went on to work as executive editor of *The Sentinel Newspapers* in Maryland and as producer and television correspondent for *America's Most Wanted*, has served as a frequent news commentator, and authored seven books.

Playboy likewise has a long history of fighting for and advocating for First Amendment rights. For example, in 2000, Playboy convinced the Supreme Court to invalidate a section of the Telecommunications Act of 1996 limiting the transmission of sexually-oriented channels as an impermissible content-based restriction. *See United States v. Playboy Entm't Grp., Inc.*, 529 U.S. 803 (2000). Playboy founder Hugh Hefner was also a well-known champion of free speech, publishing *Fahrenheit 451* in serialized form in Playboy in 1954, and later starting the Hugh M. Hefner Foundation, a non-profit committed to the support of First Amendment freedoms.

In your August 2 letter, you purport to base your decision to suspend Mr. Karem's hard pass on a July 11, 2019 exchange between Mr. Karem and conservative radio host and former White House advisor, Sebastian Gorka. This exchange took place following a White House Social Media Summit attended by 200 conservative social media activists, including Mr. Gorka and a person who operated under the name "Carpe Donktum," and is best known for creating a widely distributed fake video of former Vice President Joe Biden. The event "was called a Social Media Summit, but no one from the largest platforms – Twitter, Facebook and Google – was included. Instead, the guest list included far-right extremists, people with a record of creating and trying to spread false conspiracy theories and racist tropes." *White House Social Media Summit Recap*, NPR (July 13, 2019), <https://n.pr/2GLAefk>; Katie Rogers, *White House Hosts Conservative Internet Activists at a 'Social Media Summit,' N.Y. Times* (July 11, 2019), <https://nyti.ms/31lyhhw> (noting that the event featured the attendance of "200 conservative social media firebrands," to whom the President stated "[t]he crap you think of . . . is unbelievable"). To say the least, it was a colorful and boisterous crowd.

The exchange in the Rose Garden followed President Trump's post-summit remarks on Attorney General Barr's strategy to include the citizenship question on the census. Mr. Karem asked whether President Trump would stick around and answer some questions,

Ms. Stephanie Grisham
August 5, 2019
Page 3

which he did not. One conservative social media activist then mocked Kareem, saying “Don’t be sad, don’t be sad,” and Mr. Kareem, in good humor, made a joke doing his Rodney Dangerfield impression —“looks like a crowd eager to be demonically possessed.” As the videos you cite make clear, the joke was well received by the assembled activists, many of whom were taunting and insulting the White House reporters in attendance.

In response, Mr. Gorka, as shown in videos and according to those in attendance, began yelling at Mr. Kareem, taunting him and calling him a “journalist,” with mocking air quotes. In response to Mr. Gorka’s onslaught, Mr. Kareem stated, “Hey brother we can talk anytime you want or go outside and have a long talk,” by which he was suggesting that he and Mr. Gorka actually discuss their views outside of the Rose Garden, not that the two engage in a “physical confrontation,” as your letter falsely indicates. And although Mr. Kareem never crossed the rope line separating the press corps from the event attendees, Mr. Gorka charged across the Rose Garden to confront Mr. Kareem, yelling at Mr. Kareem, and accusing Mr. Kareem of “threatening” him and shouting “You’re not a journalist! You’re a punk!” The crowd of invited conservative activists started cheering “Gorka! Gorka!” One woman in the crowd yelled, “Hit him, Gorka! Hit him!” Fox News contributor Jim Hanson even told Mr. Kareem that “just for the record, [Mr. Gorka would] kick your punk ass.” Mr. Gorka also apparently referred to other reporters as “ass hats,” and Mr. Kareem witnessed numerous attendees of the event actively heckling reporters, including CNN’s Jim Acosta. The escalation of this situation was the result of Mr. Gorka’s actions and the crowd’s response to them. At no time did any White House staffers or the Secret Service attempt to stop *any* of the guests from heckling the press, nor did they intercede to keep Mr. Gorka or any other event attendee from engaging in harassment.

Indeed, Mr. Kareem actually approached Mr. Gorka after the confrontation in an attempt to de-escalate the situation and talk things out. Mr. Kareem offered to shake Mr. Gorka’s hand. But Mr. Gorka rebuffed these efforts and refused to engage with Mr. Kareem, other than insisting repeatedly that Mr. Kareem was “done”—which may have foreshadowed Mr. Gorka’s efforts to bring about the current suspension. Similarly, subsequent to the July 11 press event, Mr. Kareem reached out to your office multiple times to discuss the incident, but you canceled meetings you and he had scheduled, and two subsequent emails Mr. Kareem sent to your office ended with no scheduled meeting. Your office then further advised that you would be available during the week of August 5, suggesting an effort to delay meeting with Mr. Kareem until *after* you decided to suspend his hard pass.

Mr. Gorka appears to have relished the confrontation. He subsequently bragged that he took on the “fake news industrial complex,” <https://bit.ly/2KeBbyE>, and “read [Mr. Kareem] the riot act, @SebGorka, *Twitter* (Jul. 11, 2019, 3:12 P.M.), suggesting his aggression aimed at Mr. Kareem may well have been staged theatrics. He even called on

Ms. Stephanie Grisham
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others to follow his “example” in confronting journalists, <https://washex.am/2YANv4v>. President Trump applauded Mr. Gorka on Twitter, writing “@SebGorka Wins Big, No Contest!” The tweet is now “pinned” at the top of Mr. Gorka’s Twitter profile. The President’s tweet, in fact, demonstrates that he did not view Mr. Karem’s conduct as threatening to the administration or any of its guests, but rather thought it was humorous.

In the 22 day period between the social media summit and your August 2 “preliminary decision” to suspend Mr. Karem’s hard pass, President Trump has responded to several of Mr. Karem’s questions at press events, including answering two questions—one about potential Director of National Intelligence nominees and one about potential farm subsidies due to the China Trade War—a little less than two hours before Mr. Karem received the email telling him of your preliminary decision. On August 1, in fact—the day before you sent your letter—Mr. Karem asked the President to respond to presidential candidate Bernie Sanders’s contention that the President was a pathological liar, a question the President ignored.

The next day, despite no relevant communications since the Rose Garden event, you sent your letter advising of your “preliminary” decision to revoke Mr. Karem’s hard pass. Mr. Gorka immediately celebrated the suspension on Twitter, thanking you and the President “[o]n behalf of Americans who’ve had enough of FakeNews punks like @BrianKarem.”

II. The Preliminary Decision to Suspend Mr. Karem’s Hard Pass Violates His Due Process and First Amendment Rights

Your own letter amply demonstrates the violation of Mr. Karem’s and Playboy’s constitutional rights. *First*, you acknowledge in your letter that the White House has “*not*” issued any “explicit rules . . . to govern behavior by members of the press at White House press events,” such as the social media summit on July 11.² Instead, you cite only vague, purportedly “widely shared understanding[s]” as the basis for your decision to temporarily suspend Mr. Karem’s hard pass—a pass our client has possessed for nearly a year and in which he unquestionably has a “First Amendment liberty interest,” *Cable News Network, Inc. v. Trump*, No. 18-cv-2610, Dkt. No. 22 (D.D.C. Nov. 16, 2019) (oral ruling).

In *Sherrill v. Knight*, 569 F.2d 124 (D.C. Cir. 1977), the D.C. Circuit made clear that due process in this context requires the government “*to articulate and publish* an explicit and meaningful standard” governing the denial of White House press passes, in advance of any

² You note that the White House “had not previously though that a set of explicit rules was necessary to govern behavior by members of the press at White House events.” We agree and believe that the prior practice of the White House working cooperatively with the press is preferable to using revocation and threats of revocation of hard passes as a tool to stifle journalistic activity.

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such deprivation. *Id.* at 131 (emphasis added); *see also id.* at 129 (“[T]he protection afforded newsgathering under the first amendment guarantee of freedom of the press requires that this access [to White House press facilities] not be denied arbitrarily or for less than compelling reasons.”). That is consistent with longstanding U.S. Supreme Court precedent requiring clear and objectively administrable standards, particularly where the First Amendment is concerned: “A fundamental principle in our legal system is that laws which regulate persons or entities must give fair notice of conduct that is forbidden or required.” *FCC v. Fox Television Studios, Inc.*, 567 U.S. 239, 253 (2012). And “[w]hen speech is involved, rigorous adherence to those requirements is necessary to ensure that ambiguity does not chill protected speech.” *Id.* at 253–54.

In truth, there are no so-called “widely understood understanding[s]” that would support your preliminary decision, and the standards you have concocted are so vague and subjective as to be unconstitutional on their face. Notions that the press corps has widely understood that they must maintain “decorum,” “obey instructions from White House staff,” and refrain from “taunting other members of the press” appear to be nothing more than newly-generated pretextual rationales seeking to justify the White House’s decision *post hoc* in this circumstance. Indeed, numerous attendees at the July 11 event violated the apparent no-taunting rule, yet you have singled out only Mr. Kareem for punishment without explanation.

Moreover, the vague “understanding[s]” referred to in your letter plainly do not constitute the “publish[ed] . . . explicit and meaningful standards” required under *Sherrill v. Knight* and other binding case law. This is precisely what the Constitution prohibits. *See, e.g., Fox Television Stations*, 567 U.S. at 253 (finding broadcaster’s due process rights were violated and noting that the “void for vagueness doctrine addresses at least two connected but discrete due process concerns: first, that regulated parties should know what is required of them so they may act accordingly; second, precision and guidance are necessary so that those enforcing the law do not act in an arbitrary or discriminatory way”); *Reno v. ACLU*, 521 U.S. 844, 871–72 (1997) (“The vagueness of [a content-based regulation of speech] raises special First Amendment concerns because of its obvious chilling effect on free speech.”); *BMW of N. Am., Inc. v. Gore*, 517 U.S. 559, 574 (1996) (“Elementary notions of fairness enshrined in our constitutional jurisprudence dictate that a person receive fair notice not only of the conduct that will subject him to punishment, but also of the severity of the penalty that a State may impose.”); *Giaccio v. Pennsylvania*, 382 U.S. 399, 403 (1966) (“[O]ne of the basic purposes of the Due Process Clause has always been to protect a person against having the Government impose burdens upon him except in accordance with the valid laws of the land. Implicit in this constitutional safeguard is the premise that the law must be one that carries an understandable meaning with legal standards that courts must enforce.”).

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Second, Mr. Karem was afforded *no* process before you reached this “preliminary decision,” which was revealed to Mr. Karem after the fact, limiting Mr. Karem to an “appeal” on short notice of a decision already made. *See Sherrill*, 569 F.2d at 131 (“[N]otice . . . of the factual bases for denial [of access to White House press facilities] with an opportunity to rebut is a minimum prerequisite for ensuring that the denial is . . . [not] based on arbitrary or less than compelling reasons.”). There is no indication that responding to your “preliminary” decision to revoke Mr. Karem’s pass provides Mr. Karem any meaningful opportunity to be heard by an objective decision-maker as due process requires, thus rendering any final decision you make to strip him of his pass constitutionally infirm. *See Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868, 881 (2009) (noting that due process violated not only when a “judge is actually, subjectively biased,” but also when there exists even the “potential for bias”). You even state that the President is “aware” of your decision to suspend Mr. Karem’s pass and already “concurs” with it.

This retroactive application of vague, unarticulated standards to a journalist’s access to the White House through a process “shrouded in mystery” is just the type of due process violation that led the United States District Court for the District of Columbia to issue a temporary restraining order against members of the Trump Administration in November in connection with the revocation of another reporter’s hard pass. *See Cable News Network*, No. 18-cv-2610, Dkt. No. 22 (oral ruling).³

Third, while the stated rationale for the preliminary decision and the (lack of) process that led to it are by themselves fundamentally flawed, the facts and circumstances also suggest that the decision was in fact based on unconstitutional content and viewpoint-based discrimination and potentially made in coordination with Mr. Gorka. *See, e.g., Knight First Amendment Inst. at Columbia Univ. v. Trump*, 928 F.3d 226 (2d Cir. 2019) (invalidating the President’s viewpoint discrimination as unconstitutional); *cf. Cable News Network*, No. 18-cv-2610, Dkt. No. 22 at 11:7–8 (concluding that the Administration’s original justification for suspending Jim Acosta’s hard pass was based on evidence “of questionable accuracy”). Mr. Gorka attacked Mr. Karem for being what Mr. Gorka deems a fake journalist, a term that President Trump and his supporters frequently apply to what they perceive as negative coverage of the President, and called on others to follow his “example.”

<https://washex.am/2YANv4v>. And President Trump tweeted his approval of Mr. Gorka’s actions, writing “@SebGorka Wins Big, No Contest!” Further, although Mr. Gorka and the

³ The court in *CNN* also concluded that “[e]ach day that [a reporter] is deprived of” his “First Amendment liberty interest in a White House press pass” “without the process prescribed by the court in *Sherrill*, he suffers a harm that cannot be remedied.” *Cable News Network, Inc.*, No. 18-cv-2610, Dkt. No. 22 at 6:14–15, 13:8–13. To the extent you unlawfully deprive Mr. Karem of his press pass for even one day, you will cause irreparable harm, and we reserve all legal rights to seek a concomitant remedy to that harm, including money damages for the violation of clearly established federal law.

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other attendees of the summit were in fact responsible for the “gross breach of decorum” you identify in your letter, and not Mr. Kareem, you decided instead to single out Mr. Kareem for retaliation even while the President celebrates those, including Mr. Gorka via presidential tweet, who have behaved far worse. *See, e.g., Trump Praises Montana Congressman Who Body-Slammed Reporter*, CNBC (Oct. 19, 2018 6:19AM), <https://cnb.cx/33d1YCR> (noting the President’s praise of Greg Gianforte’s body slam of a reporter: “Any guy that can do a body slam—he’s my kind of guy He’s a great guy, tough cookie.”). This exhibits a clear and prohibited bias based on content of speech and the identity of the speaker. *See Citizens United v. Fed. Election Comm’n*, 558 U.S. 310, 340 (2010) (“Speech restrictions based on the identity of the speaker are all too often simply a means to control content.”).

The fact that the suspension is content-based is also supported by the fact that the White House waited 22 days before issuing its preliminary decision to suspend Mr. Kareem’s hard pass—with the President answering several of Kareem’s questions during that period—suggesting that the decision is less about protecting safety or decorum than silencing a journalist known for tough questioning of the President. Indeed, the timing of the letter appears more connected to Mr. Kareem’s questioning of President Trump on August 1 regarding Bernie Sanders’s contention that the President was a pathological liar, than to a press event three weeks earlier, not the first time Mr. Kareem has appeared to rankle President Trump and White House officials with tough questions.⁴ The fact that you made no effort, during the three-week delay, to inquire about the incident or provide a warning regarding conduct at Rose Garden events is further evidence that the “preliminary decision” to suspend Mr. Kareem’s hard pass is nothing more than a pretext for punishing Mr. Kareem for the content of his questioning and a means to chill Mr. Kareem and other journalists from aggressively covering the President and the White House by instilling fear of having their hard passes suspended or revoked.

Finally, you also provide no explanation as to why suspending Mr. Kareem’s hard pass is a sufficiently tailored restriction of his First Amendment liberty interests where

⁴ For example, as recently as July 24, 2019, nearly two weeks after the incident in question, the President called Mr. Kareem and other journalists “fake news” while pointing his finger at Mr. Kareem. As another example, on June 14, 2018, Kareem had a widely-reported exchange with Sarah Huckabee Sanders in the White House briefing room. In response to a question from CNN White House correspondent Jim Acosta about the detention of immigrant children, Sanders responded that it is “biblical to enforce the law.” Kareem then asked Sanders whether she had empathy, given that she herself is a parent. Later that day, Fox News host Jesse Watters said that Kareem and Acosta “don’t belong” in the briefing room and that the White House “need[s] to start ripping press passes away.” The President has made clear his dislike of tough questioning by Kareem. On February 21, 2019, after Kareem asked the President where he got his statistics about border violence, Trump told Kareem: “Sit down! Sit down! Sit down!” A few weeks later, on June 11, 2019, when Kareem tried to ask the President a question, Trump turned and glared at Kareem and said “Quiet! Quiet! Quiet!”

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several less severe restrictions are available. *Sherrill* requires “compelling” reasons for revoking a hard pass, and your letter does not articulate any such compelling reason. Instead, it again misstates the facts and shifts the rationale.

III. Conclusion

Hard passes are not meant to be weaponized as a means of penalizing reporters for coverage with which the administration disagrees based on amorphous and subjective standards. Such actions unconstitutionally chill the free press. We thus respectfully request that you revoke your “preliminary” decision to suspend Mr. Kareem’s hard pass and confirm the full restoration of his pass. In the event that you decline to do so, we request that you produce all communications between you, the President, and others in the White House or Press Office, on the one hand, and Mr. Gorka, on the other hand, regarding the July 11 “social media summit” and the incident that occurred there, and all documents relating to this preliminary decision. We further request that you meet with us prior to finalizing the decision so that Mr. Kareem has a meaningful opportunity to respond to the evidence.

We reserve all rights to contest what would be an unconstitutional suspension.

Respectfully,

A handwritten signature in blue ink, appearing to read 'Theodore J. Boutros Jr.', is written over a horizontal line.

Theodore J. Boutros Jr.

Exhibit 6

THE WHITE HOUSE
WASHINGTON

August 6, 2019

Theodore J. Boutrous Jr.
Gibson, Dunn & Crutcher LLP
333 South Grand Avenue
Los Angeles, CA 90071-3197

Dear Mr. Boutrous:

I previously informed your client, Brian Karem, of my preliminary decision to suspend his hard pass for 30 days due to his conduct at the press event in the Rose Garden on July 11, 2019. I have received your response, including your request for a meeting before I make my final determination. I am happy to grant that request. Given existing travel schedules and conflicts, my principal deputy, Hogan Gidley, is available to meet with Mr. Karem and you or other counsel on Thursday, August 8, 2019. Please contact my office to arrange a time. In light of this anticipated meeting, I will also consider, in making my final determination, any supplement to your written response that you wish to submit by 5:00 PM on Friday, August 9, 2019.

Sincerely,



Stephanie A. Grisham
Assistant to the President
White House Press Secretary

Exhibit 7

[REDACTED]

From: Grisham, Stephanie A. EOP/WHO <Stephanie.A.Grisham@who.eop.gov>
Sent: Thursday, August 8, 2019 9:02 PM
To: Dupree Jr., Thomas H. <TDupree@gibsondunn.com>
Cc: Champion, Anne <AChampion@gibsondunn.com>; Philbin, Patrick F. EOP/WHO <Patrick.F.Philbin@who.eop.gov>
Subject: Re: [EXTERNAL] RE: Brian Karem Response

[External Email]

Mr. Dupree and Ms. Champion:

Thank you for meeting today to discuss this matter. During today's meeting, you asked several questions suggesting that you desired access to witnesses to prepare your response. To avoid any confusion or misunderstanding, I wanted to clarify the materials on which I will base my final decision regarding Mr. Karem's hard pass. I will base my final decision solely on the following: the publicly available videos listed below (which show several angles of the incident), the observations of the U.S. Secret Service agent who intervened and spoke to Mr. Karem as shown on the videos and whose recollection concerning the event we described to you today, your initial August 6, 2019 response, our in-person discussion today, and any supplemental response you wish to submit (including any supporting documents or facts) in accordance with my August 6, 2019 letter. We have not conducted, nor will I rely on, interviews with any other witnesses to the event.

- <https://youtu.be/VNfPaZ4Ipsw>
- <https://youtu.be/HMVmkTFedUc>
- <https://youtu.be/qQe2JFS08Rg>
- <https://youtu.be/mNySuQFh2YE>
- <https://youtu.be/zRogWTuS5HI>
- <https://twitter.com/dcexaminer/status/1149451612227887104>
- <https://twitter.com/Reuters/status/1149445607288950784>

Sent from my iPhone

On Aug 7, 2019, at 5:06 PM, Dupree Jr., Thomas H. <TDupree@gibsondunn.com> wrote:

Thank you. Brian will not be accompanying us, but Anne and I have

registered and look forward to seeing you tomorrow at 4 pm.

-Tom

From: Murrell, Baxter R. EOP/WHO <Baxter.R.Murrell@who.eop.gov> **On Behalf Of** Grisham, Stephanie A. EOP/WHO
Sent: Wednesday, August 7, 2019 4:09 PM
To: Boutrous Jr., Theodore J. <TBoutrous@gibsondunn.com>
Cc: Brian Karem <brianjkarem@gmail.com>; Dupree Jr., Thomas H. <TDupree@gibsondunn.com>; Champion, Anne <ACHampion@gibsondunn.com>; Murrell, Baxter R. EOP/WHO <Baxter.R.Murrell@who.eop.gov>
Subject: RE: Brian Karem Response

[External Email]

Mr. Boutrous:

I am happy to meet tomorrow, August 8, 2019 at 4:00 PM with Mr. Karem, along with Mr. Dupree and Ms. Champion. Please have Mr. Dupree and Ms. Champion get in touch with my assistant, Baxter Murrell (copied here), as soon as possible to provide the information necessary to access the White House.

From: Boutrous Jr., Theodore J. <TBoutrous@gibsondunn.com>
Sent: Wednesday, August 7, 2019 9:17 AM
To: Grisham, Stephanie A. EOP/WHO <Stephanie.A.Grisham@who.eop.gov>
Cc: Brian Karem <brianjkarem@gmail.com>; Dupree Jr., Thomas H. <TDupree@gibsondunn.com>; Champion, Anne <ACHampion@gibsondunn.com>
Subject: [EXTERNAL] Re: Brian Karem Response

Dear Ms. Grisham:

Thank you for your response. My partners Thomas Dupree and Anne Champion are available to meet [at 4 PM on Thursday, August 8, 2019](#). Does that work for Mr. Gidley? I am copying them so they can work directly with your office to set it up. Regards,

Ted

Theodore J. Boutrous Jr.

GIBSON DUNN

Gibson, Dunn & Crutcher LLP
[333 South Grand Avenue, Los Angeles, CA 90071-3197](#)

Tel [+1 213.229.7804](tel:+1213.229.7804) • Fax [+1 213.229.6804](tel:+1213.229.6804)
TBoutrous@gibsondunn.com • [>>www.gibsondunn.com<<](http://www.gibsondunn.com)

On Aug 6, 2019, at 2:26 PM, Grisham, Stephanie A. EOP/WHO
<Stephanie.A.Grisham@who.eop.gov> wrote:

[External Email]

Please see the attached in response to your letter.

From: Boutrous Jr., Theodore J. <TBoutrous@gibsondunn.com>
Sent: Monday, August 5, 2019 4:18 PM
To: Grisham, Stephanie A. EOP/WHO <Stephanie.A.Grisham@who.eop.gov>
Cc: Brian Karem <brianjkarem@gmail.com>
Subject: [EXTERNAL] Brian Karem Response
Importance: High

Dear Ms. Grisham:

Attached is Brian Karem's response to your August 2 letter notifying him of your preliminary decision suspending his hard pass. Thank for your consideration of this matter.

Ted Boutrous

Theodore J. Boutrous Jr.

GIBSON DUNN

Gibson, Dunn & Crutcher LLP
333 South Grand Avenue, Los Angeles, CA 90071-3197
Tel +1 213.229.7804 • Fax +1 213.229.6804
TBoutrous@gibsondunn.com • [>>>www.gibsondunn.com<<<](http://www.gibsondunn.com)

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<Letter from Press Sec. to Boutrous re Karem 8.6.2019.pdf>

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Exhibit 8

August 9, 2019

VIA ELECTRONIC MAIL

Ms. Stephanie Grisham
Assistant to the President
White House Press Secretary
The White House
1600 Pennsylvania Avenue NW
Washington, D.C. 20500

Re: *Brian Karem*

Dear Ms. Grisham,

This letter, and the enclosed statement from our client, Brian Karem, follow up on our meeting yesterday and provide additional information relevant to the events in the Rose Garden on July 11, 2019. As we have explained, those events provide no basis for suspending Mr. Karem's hard pass.

While I appreciate your meeting with my partners Tom Dupree and Anne Champion yesterday, that meeting falls far short of providing Mr. Karem due process. We still lack critical information that remains in your possession and that you have refused to disclose. For example, you have advised that you intend to rely on a witness statement you obtained from a Secret Service official who observed the events at issue, yet you have refused to give us the full statement, or even to disclose his identity. Instead, you read aloud to us what appeared to be a selected excerpt from the statement. We again ask that you provide us with the full statement, which may contain information that confirms that Mr. Karem did nothing wrong in the face of widespread taunting and even physical aggression and menacing from one of the invited guests.

Your email of last night revealed that you failed to conduct a reasonable investigation before reaching your preliminary decision. Among other deficiencies, you admit that you did not speak to a single witness. You did not speak to Sebastian Gorka, Jim Hanson, or any of the other individuals who are seen on video taunting and/or threatening Mr. Karem. You did not speak to any of the journalists who were standing alongside Mr. Karem in the press pen and observed firsthand what happened. Nor did you speak to Mr. Karem himself, despite his efforts to speak with you. In fact, you claimed to lack evidence that Mr. Karem

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Ms. Stephanie Grisham
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made any attempt to speak with you. Enclosed with this letter are emails reflecting his efforts.

You have also elected to ignore publicly-available evidence that Mr. Gorka has trumpeted his confrontation with Mr. Kareem, bragging that he took on the “fake news industrial complex,”¹ as well as evidence that the President himself viewed the events as humorous.² All of this information is highly relevant to your decision, yet you have deliberately chosen to ignore it.

You have advised us that the potential basis for suspending Mr. Kareem’s hard pass was that he insulted the guests and then “escalated” the situation by stating to Mr. Gorka, “Hey brother we can talk anytime you want or go outside and have a long talk.” As Mr. Kareem explains in the enclosed statement, the alleged insult was intended as a humorous remark—and was understood by the crowd as such, as the laughter that followed makes abundantly clear.

Mr. Kareem also explains that, by asking Mr. Gorka to go outside and have a long talk, he did not intend to start a fight. Mr. Kareem did not call on Mr. Gorka simply to step outside; rather, he asked Mr. Gorka to go outside *so they could have a conversation*. Those words cannot be reasonably understood as an invitation to fight. The Supreme Court has described “fighting words” as “those which, by their very utterance, inflict injury or tend to incite an immediate breach of the peace,” *Chaplinsky v. New Hampshire*, 315 U.S. 568, 572 (1942), and Mr. Kareem’s statement does not remotely approach that standard.

The President himself has used far stronger language and imagery. Among other things, he has tweeted an image of himself wrestling a CNN icon to the ground,³ and stated that a congressman who body-slammed a reporter is “my kind of guy.”⁴ He has also urged his supporters to “knock the hell” out of protestors at his rallies,⁵ and remarked about one protestor, “I’d like to punch him in the face.”⁶ If the President’s statements cannot reasonably be understood as endorsing or inciting violence, the White House cannot possibly

¹ <https://bit.ly/2KeBbyE>.

² The President tweeted about the incident, writing “@SebGorka Wins Big, No Contest!”

³ <https://mobile.twitter.com/realDonaldTrump/status/881503147168071680>

⁴ *Trump Praises Montana Congressman Who Body-Slammed Reporter*, CNBC (Oct. 19, 2018 6:19AM), <https://cnb.cx/33d1YCR> (noting the President’s praise of Greg Gianforte’s body slam of a reporter: “Any guy that can do a body slam—he’s my kind of guy He’s a great guy, tough cookie.”).

⁵ <https://www.latimes.com/politics/la-na-trump-campaign-protests-20160313-story.html>.

⁶ <https://www.latimes.com/politics/la-na-trump-campaign-protests-20160313-story.html>

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deem Mr. Kareem's offer to "go outside and have a long talk" as over the line. *See Nwanguma v. Trump*, 903 F.3d 604, 609 (6th Cir. 2018) (dismissing claims that President incited violence at a campaign rally and holding that "only speech that explicitly or implicitly encourages the imminent use of violence or lawless action is outside the protection of the First Amendment") (citing *Brandenburg v. Ohio*, 395 U.S. 444 (1969)).

Mr. Kareem's "have a long talk" statement must also be viewed in context. When he spoke those words, Mr. Kareem was not in a barroom, but in the Rose Garden—one of the least likely places on earth to challenge someone to a fight. Moreover, Mr. Kareem did nothing to suggest he wanted a physical confrontation. Throughout the incident, he remained standing in the press area and did not advance toward Mr. Gorka. In contrast, Mr. Gorka made a beeline toward Mr. Kareem, shouting at him, making menacing and aggressive gestures, calling him a "punk" and not a real journalist—all to further whip the crowd into a frenzy. Indeed, Mr. Gorka's behavior was so threatening that it caused the crowd to start yelling at Mr. Gorka to hit Mr. Kareem, and prompted Mr. Hanson to declare that "just for the record, [Mr. Gorka would] kick your punk ass." The videos show that, in the face of this onslaught, Mr. Kareem folded his arms respectfully—body language making clear he had no wish to engage in a physical confrontation—and said to Mr. Gorka, "I'd be happy to talk to you."

Any reasonable viewer of the video of this event would conclude that Mr. Kareem was not the aggressor and did nothing to escalate the situation. The aggressors were Mr. Gorka and a hostile crowd whose anger against Mr. Kareem and his colleagues in the press pen had been stoked by the President's constant references to the media as "fake news," the "opposition party" and "the enemy of the people."⁷ Indeed, after the event, both Mr. Gorka and the President celebrated Mr. Gorka's aggression on Twitter as a "win" for Mr. Gorka over Mr. Kareem and the "fake news industrial complex."

Under these circumstances, your decision to single out Mr. Kareem—and not punish anyone else, even those who can be seen on video expressly calling for Mr. Kareem to be attacked—conclusively establishes that a suspension would amount to arbitrary, discriminatory, content-based punishment arising from Mr. Kareem's viewpoint and the content of his reporting. *See R.A.V. v. City of St. Paul*, 505 U.S. 377, 388-91 (1992) (constitutionally impermissible to single out and punish content-based speech through prohibition on "fighting words").

Finally, you have asked what lesser sanctions might be appropriate. As we explained yesterday, we believe that Mr. Kareem did not act inappropriately and no sanction is

⁷ <https://cpj.org/blog/2019/01/trump-twitter-press-fake-news-enemy-people.php>

GIBSON DUNN

Ms. Stephanie Grisham
August 9, 2019
Page 4

warranted. If you are nonetheless inclined to impose a lesser sanction, it could consist of a letter setting forth your position on these events—an approach that would be consistent with the way the White House resolved the matter involving Jim Acosta.

We continue to reserve all rights to contest what would be an unfair, unlawful, and unconstitutional suspension.

Respectfully,

A handwritten signature in blue ink, appearing to read "Theodore J. Boutrous, Jr.", with a large, stylized initial "T" and "B".

Theodore J. Boutrous, Jr.

cc: Patrick Philbin, Deputy White House Counsel

Attachments

Exhibit 9

STATEMENT OF BRIAN KAREM

I write to provide you with background about myself and to tell you my side of the story regarding what happened at the Social Media Summit on July 11, 2019.

I have been a political reporter for almost 40 years. I have also covered crime and wars, and I have run community newspapers. I've been jailed, shot at, beaten, and threatened. I am currently Playboy's senior White House correspondent and a political analyst for CNN. I am president of the Maryland, Delaware, and District of Columbia Press Association. In 1990, I was jailed for contempt of court after refusing to disclose the name of confidential sources who helped me arrange a telephone interview with a jailed murder suspect, after which I was awarded the National Press Club's Freedom of the Press award. I went on to work as executive editor of The Sentinel Newspapers in Maryland and as producer and television correspondent for America's Most Wanted. I have also authored seven books.

I have covered six White Houses. While I have held my current hard pass since last year, in the past I also held hard passes. My experience in the White House is important because I can tell you, point blank, that the behavior of the press corps today is tame by comparison.

The first time I walked into the White House I was 25. It was 1986 and Ronald Reagan was president. The first person I met was Helen Thomas, who covered the White House under *ten* Presidents, and who, as it turns out, knew my great grandfather from Lebanon. She offered to take me to her house and make me an authentic Lebanese dinner.

Then she walked upstairs to Acting Press Secretary Larry Speakes' office and began banging on the door, encouraging him to come outside and talk to her. I watched, amused and in awe. President Clinton's Press Secretary, Mike McCurry, later told me that when Helen was around he would bring her coffee and a donut by seven a.m. every morning.

It was a wild time, with other reporters like ABC News Correspondent Sam Donaldson and long-time White House reporter Sarah McClendon in the briefing room.

"There's nothing wrong with the president trying to put his best foot forward," Sam told me. "But it's our job to find out what's really going on," he added.

"If you're looking for friends, then you're in the wrong business," Helen told me.

Sarah McClendon told me, "Watch and learn."

CBS White House Correspondent Bill Plante once, in a story widely told by his peers, nearly got into blows with a guest in the Rose Garden. They were a vocal bunch, those reporters of old, and pushed the envelope and pushed back—hard—against presidents and their agendas.

I have come and gone in that briefing room over the years, rarely staying long enough to be a central player in the history of the White House and the battles with the press that have been memorable and an important part of the American tapestry. I've seen administrations learn from the questions asked by reporters and adapt their policy and strategy based on what was asked of them in briefings.

The briefings have been contentious at times. Or silly. Or both. I remember a defrocked minister who always asked about UFOs or Big Foot. One day a press secretary walked in with the usual huge briefing book to refer to administration policy, facts and figures. He fielded a question from the minister who asked if we were hiding a Big Foot family or aliens.

The administration official thumbed back and forth through the huge book, settled on a page. He opened it wide, ran down the length of the page, seemed to find the appropriate information and looked up. "No." He said. Then he moved on.

I remember once tripping over myself in the White House (I am now an aging klutz and looked up to see President Reagan smile at me as I tried to pull myself up.

I remember covering scandals, angering presidents, and laughing with them. I've often talked to sources in the White House, or invited them off the grounds for private conversations. I adopt an upbeat and jovial attitude inside the White House because there is so much of a serious nature going on that I find a little levity helps people make it through the day. I know I benefit from a sense of humor.

When Rodney Dangerfield said, "I'm telling you it's a tough room," I used that in the White House. When I didn't get answers, I have been known to say, "I'm tellin' you, no respect." Sean Connery and Curly from the Three Stooges have visited through my impersonations as well.

All I have seen and all I've been a part of in the last four decades, however, did not prepare me for the White House of President Donald Trump. Reporters covering the White House are routinely demeaned by the President and some of his allies, as "fake news," "enemies of the people," and other epithets. Reporters have been threatened—explicitly by some of the President's more fringe followers—and sometimes the President implicitly supports this rhetoric. I myself have been subjected to ugly threats, in particular in the weeks since July 11, 2019.

On July 11, 2019, we saw these forces collide. That day, I went to the White House, as I do most days when the President is in town. President Trump had scheduled that day with no open press events.

But on his schedule was a Social Media Summit, or something similarly named. But as the day wore on, the President announced he would allow a pool spray during the summit at 3:45 p.m. and then would have a press conference for the open press at 5 p.m. in the Rose Garden.

Rose Garden events are mixed blessings. It can be mid-January with an ongoing blizzard, but it always seems that in the Rose Garden it is 150 degrees, sunny, with no wind. Many reporters remember the day President Trump announced we were leaving the Paris Climate Accords and took it as a warning sign that many of us were close to a heat stroke in that sun.

So, no one was looking forward to a Rose Garden press conference. And, as it turns out, the President did not have a press conference. He was fashionably late. It was hot. We waited. He came out. He made a statement—that could've been made in the 3:45 p.m. event. Then he turned and left. As the President did so, I said words to the effect of "Mr. President, do you mind sticking around to answer a few questions?" I think one or two others may have tried to ask a question. My voice is loud. I was heard. The President left and did not respond, but some of the bloggers apparently thought the President's departure was an opportunity to try to humiliate the working press. Some of the guests had already been heckling the press corps. The heckling began anew. And I heard someone from the crowd say, "He talked to us, the real news." Someone else taunted me, "don't cry, don't be sad" that the President hadn't taken my questions, or something equally demeaning.

I'm telling you. Tough Room. I get no respect... So, in an attempt to defuse the situation, I did my Rodney Dangerfield: "Hey, looks like a group eager to be demonically possessed." I smiled. They smiled. We laughed. I thought that was that. Hey, at least I got a laugh.

Then I heard Sebastian Gorka taunt me from across the lawn about being a journalist. I don't know Gorka. I have only seen him twice in my life. I've never read anything that he's written or listened to his podcasts. I only know about him from others, figured he was a character, and relished the idea of getting to know him—not fight him. So I said "Hey, we can

talk here brother, or we can go outside and have a long conversation.” I actually had a thought I could get him on my podcast and that might be fun. He said I wanted to fight and began calling me a punk and threatening me as he made a beeline toward me from across the lawn—getting in my face as I stood behind the rope-line. As he continued to yell at me, the crowd began to join in, jeering and yelling, “Gorka! Gorka!”

I was a little discombobulated by his aggression, which I did not understand and did not feel I had provoked. I told him, “I’d be happy to talk to you,” assuring him I did not want to fight.

I mostly remained motionless. I’ve invited dozens of people outside the White House during the last 35 years to talk. The optimal word of course is “talk”—not fight. Who would invite someone to a WWF smackdown in the White House Rose Garden in front of 200 people, dozens of television cameras? Certainly not me. I’m about to be a grandfather for the first time. The only thing I’m fighting is arthritis and a bad meniscus.

A few days after I ran into Gorka I invited someone else I saw at the White House to go off campus and have a talk. It’s always better to talk where there are fewer reporters and listening devices. Privacy is hard to come by.

I saw John McCain at the White House once and asked him that very same thing. “Can we go outside and have a conversation?” I asked. I remember him saying, “Where to?” I suggested “Off the Record Lounge.” He smiled. “Too many people know me there.” I settled for a short stroll in Lafayette Park.

No one I’ve ever said this to has ever taken this to mean I wanted to fight them.

At the White House, I come in with a smile. I sing. I dance. I entertain lower press. I’ve done that off and on over the years when I come to the White House. You might as well enjoy a laugh because life is too short.

Most everyone who knows me knows that’s me. I’ve done my Rodney impression and a few other impressions (some like the Sean Connery and others like show tunes). I take my job seriously, but I do not take myself too seriously.

Gorka escalated events. He wanted the fight. I just wanted to talk. I thought he’d be a fascinating guy to talk to for my podcast and still do. I’ve interviewed Trump campaign advisor George Papadopoulos, Republican communications consultant Alice Stewart, former Trump White House Communications Director Anthony Scaramucci, comedian Carl Reiner, and reporter Sam Donaldson, so why not Gorka?

After he stormed off, we began to leave. The rope fell. I think I tripped over the rope as I was trying to leave. A Secret Service Agent said I had crossed the fallen rope. I apologized. I moved back. I never strayed too far. I certainly didn’t chase after anyone.

As we left and the hubbub had died down, I passed Gorka and approached him to see if he was just playing things for the camera and to make peace with him. I offered to shake his hand, and he wouldn’t do it. I told him I had no intention of fighting with him and said we could talk any time. He wouldn’t shake my hand. I shook my finger in disappointment at him, not aggression, while he yelled at me over and over again, “You’re done!”

I still wouldn’t mind having him on my podcast.

I left.

I never heard one word from the White House about this matter. Not once. White House logs should show that I was at the White House at least a dozen times from July 22 until my suspension on August 5. I interacted with the White House staff two or three times a day during those visits, including with Hogan Gidley and Stephanie Grisham, at least briefly. Not once did

this episode ever get mentioned by them, nor did they say they wanted to schedule time to talk to me about it.

I had been trying to schedule an interview with the new press secretary Stephanie Grisham for some time. I had scheduled an interview prior to the Social Media Summit and she canceled it. After the event I tried to reschedule my meeting, hoping to discuss this issue with her—specifically I wanted to ask her if she could make sure White House guests could refrain from heckling and insulting working members of the press.

She never rescheduled that meeting, though I asked her, and her secretary Annie LeHardy, in person at least once and via email twice, as late as July 17. On that day, I believe I was told she would be available that week. We are submitting some related emails. Later I was told Grisham would not be available until this week for a meeting—apparently after the preliminary decision to yank my press pass.

Meanwhile, I've seen Gorka celebrating this confrontation with the “fake news industrial complex” and encouraging others to do as he did. He apparently used this episode for several days on his radio show, I'm told, to further drive home his desire to confront reporters.

In the several weeks following the Summit, the President took several questions from me in appearances on the South Lawn. It was, frankly, business as usual.

On July 17, I asked him if he'd ever been to a social function with Jeff Epstein and underage girls. He didn't answer. On July 18, I asked him if he disavowed racism, and he told me he did. On July 24, he called me and others “Fake News” gratuitously and pointed his finger right at me. Then he singled me out again, saying I had been nice to him and could ask him a question—which I did and he answered. The day before I received the suspension letter, I asked the President to respond to Bernie Sanders's statement that the President was a pathological liar, and the President didn't answer.

Then, on Friday, August 2, 2019, on the South Lawn he took two questions from me in a rather cordial exchange. At 4:55 p.m. in the afternoon, I received an email from Ms. Grisham attaching her letter informing me that my hard pass had been suspended for 30 days, and I could respond within one business day, by 5 p.m. Monday, August 5, 2019. Given that the letter came weeks after the Social Media Summit, I thought it had more to do with the question I had asked the day before about Sanders' statement that the President was a pathological liar.

I understand that Ms. Grisham says she has taken this action against my hard pass because I insulted White House guests and escalated the situation. The escalation ran the other direction, as did the insults. The crowd was heckling the journalists, and singled me out because of my parting question to President Trump. Then Gorka singled me out, and interpreted my friendly attempt to defuse the situation as a threat. At no point in time was I ever of the mindset I was going to fight anyone. As I said, I'm 58 years old, about to be a grandfather for the first time and I've got bad knees. I ain't fighting anybody. Seriously. There would have been NO confrontation if Gorka hadn't come after me. I wasn't looking for him. I don't cover Gorka. I cover the president.

Of course, I ask questions and write things that the White House may not like. But reporters aren't scribes and contention is normal. What is not normal is retaliation. Since the Social Media Summit, I've received a great deal of hate mail, a few death threats, threats against my children, and one anonymous caller who said, “I will stake you to a tree and make you watch while I rape your wife.” And now, of course, I face the prospect of having my hard pass suspended. At the same time, apparently no action has been taken against Mr. Gorka or other attendees of the Summit who escalated the situation.

All of this is perhaps not surprising when the President himself repeatedly insults journalists, smears the mainstream media, and threatened a Time magazine reporter who tried to take a picture of a letter from Kim Jong Un with prison time.

As a journalist, it's my responsibility to ask tough questions of President Trump and this administration. I was just doing my job on July 11, as I have done in previous administrations. Just today, I asked the President two questions regarding assault weapons bans and the NRA. After the news conference, as he walked by me and headed to Marine One, I asked if we could do this indoors sometime—he stopped, laughed, and waved.

It's essential that I hold on to my hard pass so that I can continue to carry out my responsibility. After all, that's what the First Amendment is all about.

And I still look forward to a one-on-one sit down with the President at his earliest convenience. I believe it would be informative and fun.

A handwritten signature in dark ink, appearing to read 'BK', with a horizontal line extending to the right.

Brian Karem
August 9, 2019

Exhibit 10

THE WHITE HOUSE

WASHINGTON

August 16, 2019

Theodore J. Boutrous Jr., Esq.
Gibson, Dunn & Crutcher LLP
333 South Grand Avenue
Los Angeles, CA 90071-3197

Dear Mr. Boutrous:

I previously informed your client, Brian Karem, that I had preliminarily determined that his hard pass should be suspended for 30 days due to his conduct at the press event in the Rose Garden on July 11, 2019. As explained below, I have now made a final determination to suspend Mr. Karem's hard pass for 30 days, effective immediately through Saturday, September 14, 2019.

Process

On August 2, 2019, I provided Mr. Karem with written notice that I had reached a preliminary decision to suspend his hard pass for 30 days due to his conduct at the press event in the Rose Garden on July 11, 2019.¹ That letter provided notice of the factual basis for my preliminary decision, explicitly provided Mr. Karem with the opportunity to contest that decision by submitting a written response to me by 5:00 PM on August 5, 2019, and explained that I would consider any timely written response before making a final determination.

On August 5, 2019, you submitted an eight-page written response on Mr. Karem's behalf.² That response did not include any supporting material, but did request, among other things, a meeting: "We further request that you meet with us prior to finalizing the decision so that Mr. Karem has a meaningful opportunity to respond to the evidence."³ The next day, I acknowledged receipt of your response and informed you that my office would be happy to meet "with Mr. Karem and you or other counsel" on August 8, 2019.⁴ In light of your complaint that you had not had sufficient time to prepare a written response and in light of this anticipated

¹ See 8/2/2019 Letter from S. Grisham to B. Karem (Preliminary Decision).

² See 8/5/2019 Letter from T. Boutrous Jr. to S. Grisham (Initial Response). Your initial response complained that "Mr. Karem was afforded *no* process before [I] reached this 'preliminary decision.'" Initial Response at 6. That complaint is fundamentally mistaken. The first step in providing process is providing notice, which is exactly what my August 2 letter provided. While Mr. Karem may be entitled to due process before his hard pass is suspended, my preliminary decision did not suspend his hard pass. My preliminary decision merely provided written notice to Mr. Karem that I intended to suspend his hard pass, informed him of the factual basis for that decision, and gave him an opportunity to respond. Preliminary Decision at 1–2. Mr. Karem's hard pass has not been suspended or restricted in any way pending this final decision.

³ Initial Response at 8.

⁴ 8/6/2019 Letter from S. Grisham to T. Boutrous Jr. (emphasis added).

meeting, I also explained that Mr. Karem could submit any supplement he wished to his written response by 5:00 PM on Friday, August 9, 2019.⁵ The next morning, you stated that your “partners Thomas Dupree and Anne Champion are available to meet at 4 PM on Thursday, August 8, 2019.”⁶ I reiterated that I was “happy to meet tomorrow, August 8, 2019 at 4:00 PM *with Mr. Karem*, along with Mr. Dupree and Ms. Champion.”⁷ Mr. Dupree then responded that he and Ms. Champion would meet with me, but that “Brian will not be accompanying us.”⁸

Despite Mr. Karem’s decision not to attend the meeting he had requested, I met with Mr. Dupree and Ms. Champion at about 4:00 PM on August 8, 2019, along with attorneys from the Office of White House Counsel. During that approximately 45-minute meeting, I provided Mr. Dupree and Ms. Champion with the opportunity to present whatever facts and arguments they wished until they were finished, and we asked some clarifying questions as well. Mr. Dupree and Ms. Champion confirmed that there was no reason for Mr. Karem’s absence other than a belief that he was not required to be there. They offered to have him come to *another* meeting if I wished to arrange a separate, second meeting to speak with him.

An attorney from the Office of White House Counsel also informed you of additional information that I would consider in making my final decision—the observations of the U.S. Secret Service agent who intervened and spoke to Mr. Karem during the incident. Because Mr. Karem was not present at the meeting, we invited you to respond to the agent’s recollections in your supplemental response.⁹ On August 8, 2019, I sent you an email outlining all of the information on which I would base my final decision.¹⁰ You submitted a supplemental, four-page response on August 9, 2019 along with supporting materials, including a written statement by Mr. Karem.¹¹

I have thus provided Mr. Karem with written notice and three opportunities to respond, in person and in writing, and the opportunity to submit any materials that he considers relevant.

Facts

As I confirmed on August 8, 2019,¹² I have based my final decision on the following:

⁵ *Id.*

⁶ Email from T. Boutrous Jr. to S. Grisham (Aug. 7, 2019 9:17 AM).

⁷ Email from S. Grisham to T. Boutrous Jr. (Aug. 7, 2019 4:09 PM) (emphasis added).

⁸ Email from T. Dupree Jr. to S. Grisham (Aug. 7, 2019 5:06 PM).

⁹ See Email from S. Grisham to T. Dupree Jr. & A. Champion (Aug. 8, 2019 9:02 PM). Your supplemental response speculates that the Secret Service agent may have provided exculpatory information that is not included in this final decision. 8/9/2019 Letter from T. Boutrous Jr. to S. Grisham (Supplemental Response). Your speculation is factually incorrect. I have relied on the Secret Service agent’s statement only for the point that the agent approached Mr. Karem because he grew concerned, after Mr. Karem’s invitation to “go outside” and Mr. Gorka’s response, that a physical altercation might break out and for the agent’s recollection of what he said to Mr. Karem. The Secret Service agent did not provide any information “confirm[ing] that Mr. Karem did nothing wrong” as you hypothesize, *id.*

¹⁰ Email from S. Grisham to T. Dupree Jr. & A. Champion (Aug. 8, 2019 9:02 PM).

¹¹ See generally Supplemental Response; 8/9/2019 Statement of B. Karem (Karem Statement).

¹² Email from S. Grisham to T. Dupree Jr. & A. Champion (Aug. 8, 2019 9:02 PM).

- Seven publicly available videos, which show multiple angles of the incidents involving Mr. Karem in the Rose Garden on July 11, 2019;¹³
- The observations of the U.S. Secret Service agent who intervened and spoke to Mr. Karem as shown on the videos and whose recollection concerning the incident we described during the August 8, 2019 in-person meeting;
- Mr. Karem's August 5, 2019 initial response; and
- The in-person discussion on August 8, 2019.

I have also relied on Mr. Karem's August 9, 2019 supplemental response, which includes a statement from Mr. Karem and several emails between Mr. Karem and my office. As I also confirmed to you on August 8, 2019,¹⁴ I have not conducted, and have not relied on, interviews with any other witnesses. After considering the sources listed above, I find the following.

After the conclusion of the President's address in the Rose Garden to invited guests of the White House Social Media Summit, Mr. Karem attempted to ask the President a question as he walked away, but the President did not respond and continued walking. I credit Mr. Karem's assertion that, at this point, a couple of the invited guests made comments to Mr. Karem, such as "[h]e talked to us, the real news,"¹⁵ and at least one video shows that a guest said "don't be sad, don't be sad."¹⁶ In response, Mr. Karem, who was standing in the designated press area behind a rope line, insulted the President's invited guests, stating that "This is a group of people that are eager for demonic possession."¹⁷ One of the guests, Sebastian Gorka, then asked, while gesturing sarcastically with air quotes, "And you're a journalist, right?"¹⁸ In response, Mr. Karem escalated the exchange by calling to Mr. Gorka from across the Rose Garden, "Come on over here and talk to me, brother. We can go outside and have a long conversation."¹⁹ Mr. Karem accompanied the suggestion that they "go outside" by gesturing with his right hand (closed hand, thumb extended, gesturing over his shoulder) and noticeably cocking his eyebrow—as if to indicate, "you know what I mean."²⁰ Under the circumstances, Mr. Karem's

¹³ Bloomberg TicToc, Sebastian Gorka Clashes with Journalist After Trump Refuses Media Questions, YouTube (July 11, 2019), <https://youtu.be/VNfPaZ4Ipsw> (Video 1); Baxter, *Journalist Brian Karem picks a fight with Sebastian Gorka*, YouTube (July 11, 2019), <https://youtu.be/HMVmkTFedUc> (Video 2); Terrence Daniels, *Fights in The Rose Garden...*, YouTube (July 11, 2019), <https://youtu.be/qQe2JFS08Rg> (Video 3); Nicholas Ballasy, *Sebastian Gorka and Reporter Get Into Shouting Match at White House*, YouTube (July 11, 2019), <https://youtu.be/mNySuQFh2YE> (Video 4); Washington Post, *Gorka to Karem: 'You're not a journalist, you're a punk'*, YouTube (July 11, 2019), <https://youtu.be/zRogWTuS5HI> (Video 5); Washington Examiner (@dcexaminer), Twitter (July 11, 2019, 3:53 PM), <https://twitter.com/dcexaminer/status/1149451612227887104> (Video 6); Reuters Top News (@Reuters), Twitter (July 11, 2019, 3:29 PM), <https://twitter.com/Reuters/status/1149445607288950784> (Video 7).

¹⁴ Email from S. Grisham to T. Dupree Jr. & A. Champion (8/8/2019 9:02 PM).

¹⁵ Karem Statement at 2.

¹⁶ E.g., Video 1, <https://youtu.be/VNfPaZ4Ipsw?t=13> (at 0:13–0:15); Video 4, <https://youtu.be/mNySuQFh2YE> (at 0:00–0:02).

¹⁷ E.g., Video 1, <https://youtu.be/VNfPaZ4Ipsw?t=17> (at 0:17–0:20); Video 4, <https://youtu.be/mNySuQFh2YE?t=4> (at 0:04–0:08).

¹⁸ Video 1, <https://youtu.be/VNfPaZ4Ipsw?t=23> (at 0:23–0:25).

¹⁹ Video 2, <https://youtu.be/HMVmkTFedUc?t=10> (at 0:10–0:14).

²⁰ See *id.*

words and gestures together created the impression to a reasonable observer that Mr. Karem was suggesting a physical confrontation.

Mr. Gorka then crossed the Rose Garden to approach Mr. Karem, shouting in response to Mr. Karem: “Are you threatening me now in the White House? In the Rose Garden? You’re threatening me in the Rose Garden?”²¹ As Mr. Gorka approached, Mr. Karem moved towards him, while staying within the rope line designating the press area.²² The assertion in Mr. Karem’s supplemental response that Mr. Karem “did not advance toward Mr. Gorka”²³ is belied by the video of the event. Mr. Karem and Mr. Gorka then traded insults face to face. Someone shouted “hit him, Gorka!”²⁴ After calling Mr. Karem a “punk,” Mr. Gorka turned and walked away, and some guests briefly chanted, “Gorka, Gorka, Gorka.” As Mr. Gorka turned to walk away toward the Palm Room, a U.S. Secret Service agent moved quickly from a position to Mr. Karem’s right, approached Mr. Karem, placed the fingers of his right hand on Mr. Karem’s right forearm and kept that position for a moment as Mr. Gorka continued to leave and as Mr. Karem shouted after him, “Go home!”²⁵

As videos show,²⁶ the Secret Service agent then crossed in front of Mr. Karem and began to move in the direction that Mr. Gorka had gone. Mr. Karem yelled after Mr. Gorka: “Go home! Go Home!” and “Hey Gorka, get a job!” Mr. Karem then left the designated press area and paced in front of other members of the press and in front of the rope that marked the designated press area (which had partially fallen to the ground). One of the guests said, “Just for the record, he’d kick your punk ass.” The Secret Service agent turned around and saw that Mr. Karem had stepped outside of the designated press area. The Secret Service agent approached Mr. Karem, put his hand on Mr. Karem’s chest, and said something to Mr. Karem that is not audible on the videos, at which point Mr. Karem stepped back into the press area.

In an interview,²⁷ the Secret Service agent explained that he approached and intervened during Mr. Karem’s exchange with Mr. Gorka because he believed there was a risk of a physical altercation. He also explained that when he approached Mr. Karem the second time, he said words to the effect of, “Take a look around, remember where you’re at, and please step back into the press pen. Let’s calm down a little bit.”

²¹ E.g., Video 1, <https://youtu.be/VNfPaZ4Ipsw?t=28> (at 0:28–0:35); Video 4, <https://youtu.be/mNySuQFh2YE?t=15> (at 0:15–0:23).

²² E.g., Video 2, <https://youtu.be/HMVmkTFedUc?t=17> (at 0:15–0:19).

²³ Supplemental Response at 3.

²⁴ E.g., Video 2, <https://youtu.be/HMVmkTFedUc?t=19> (at 0:19–0:20).

²⁵ E.g., Video 1, <https://youtu.be/VNfPaZ4Ipsw?t=28> (at 0:39–0:40); Video 5, <https://youtu.be/zRogWTuS5HI?t=10> (at 0:10–0:13).

²⁶ E.g., Video 1, <https://youtu.be/VNfPaZ4Ipsw?t=40> (at 0:40–1:09); Video 2, <https://youtu.be/HMVmkTFedUc?t=23> (at 0:23–0:33); Video 3, <https://youtu.be/qQe2JFS08Rg?t=7> (at 0:07–0:16); Video 4, <https://youtu.be/mNySuQFh2YE?t=25> (at 0:25–0:46); Video 5, <https://youtu.be/zRogWTuS5HI?t=11> (at 0:11–0:31); Video 7, <https://twitter.com/Reuters/status/1149445607288950784> (at 0:17–0:31).

²⁷ The facts in this paragraph are the only ones that came solely from the interview of the Secret Service agent. While these facts supplement my understanding of the events, they are not critical to my findings or decision. I would reach the same findings and decision without them.

As video shows,²⁸ after leaving the Rose Garden, Mr. Karem found Mr. Gorka in the Palm Room and again tried to engage with him. As he persisted in attempting to engage Mr. Gorka, Mr. Karem ignored a White House staffer's repeated directions to leave and instructions that "the press are leaving now." I credit Mr. Karem's assertion that he attempted to say some words to Mr. Gorka "to make peace with him" and that he "offered to shake his hand."²⁹ When Mr. Gorka made clear that he would not shake Mr. Karem's hand, however, Mr. Karem turned this exchange into a confrontation as well. Mr. Karem repeatedly said "you won't shake my hand," and then wagged his finger in Mr. Gorka's face. Mr. Karem asserts that he "shook [his] finger in disappointment at him, not aggression."³⁰ However, after a confrontation that included an invitation to "go outside" and shouted insults, a reasonable observer would view shaking a finger in another adult's face as only renewing the confrontation. Mr. Gorka then referred to the instructions to leave from the White House staffer, repeating "You're done!" and saying "Listen to him. Get out. Get out."³¹ As he said this, Mr. Gorka gestured toward the staffer. Mr. Karem eventually left after Mr. Gorka rebuffed him.

In defense of Mr. Karem's conduct, you have not disputed the basic outline of events. Instead, you primarily argue that Mr. Karem's actions should be characterized as nothing more than a good-natured and humorous exchange with the invited guests and as an attempt to de-escalate aggression initiated by Mr. Gorka when he crossed the Rose Garden to Mr. Karem's spot. That argument depends on two assertions: (1) Mr. Karem's "demonic possession" comment was good natured and part of what you call Mr. Karem's "Rodney Dangerfield" routine, and (2) Mr. Karem's invitation to Mr. Gorka to "go outside and have a long conversation" was genuinely asking Mr. Gorka for a conversation and was an effort to de-escalate the situation. Based on the totality of the circumstances, I find that these assertions are not credible. Moreover, even if I found that these assertions were consistent with Mr. Karem's subjective intent, Mr. Karem still should have known how his actions would have been received by a reasonable observer.

First, Mr. Karem's "demonic possession" comment cannot credibly be understood as mere light-hearted comedy. Mr. Karem has asserted that he made that comment as a Rodney Dangerfield impersonation. I do not find that assertion credible. During our August 8, 2019 meeting, Mr. Dupree and Ms. Champion conceded that Mr. Karem's "demonic possession" comment is not a quotation (or a variation of one) from any Dangerfield movie or routine. And I do not believe that any reasonable observer would have seen anything about Mr. Karem's choice of words, mannerisms, or inflection that remotely evoked Rodney Dangerfield. In addition, Mr. Karem has asserted that "everyone" in the press pool knows that he does a Dangerfield impersonation, but, despite having the opportunity to do so, he has not provided any statement from press members familiar with his impersonation stating that Mr. Karem was performing that impersonation on this occasion. In any event, even if Mr. Karem had been doing an impression, it would not alter the fact that he insulted White House guests. An insult to guests is still an insult even if delivered while mimicking a comedian.

²⁸ Video 4, <https://youtu.be/mNySuQFh2YE?t=173> (at 2:53–3:26).

²⁹ Karem Statement at 3.

³⁰ *Id.*

³¹ Video 4, <https://youtu.be/mNySuQFh2YE?t=186> (at 3:06–3:11); Video 4, <https://youtu.be/mNySuQFh2YE?t=200> (at 3:20–3:24).

You have placed a great deal of weight on the fact that there was some laughter after Mr. Karem's comment about demonic possession. I do not believe that laughter in that situation somehow establishes that Mr. Karem was having nothing more than a good-natured exchange. Mr. Karem's comment was not light-hearted; it denigrated the mental state of the gathered audience. And the laughter in response was equally consistent with a reaction in disbelief at the bizarreness of Mr. Karem's taunt. In any event, the comment was certainly taken as an insult by some members of the audience, as evidenced by Mr. Gorka's response. That objective response, no matter Mr. Karem's subjective intent, reinforces the fact that the comment was inappropriate and unprofessional.

Second, Mr. Karem's invitation to Mr. Gorka to "go outside and have a long conversation" cannot objectively be understood as an effort to de-escalate by making a genuine invitation for a conversation in another forum. Any characterization of this comment as a neutral comment or an attempt to de-escalate the situation is belied by the facts shown on the videos. As a threshold matter, the videos plainly show that it was the suggestion to "go outside" that *escalated* the situation. Before that comment, Mr. Karem had made his "demonic possession" comment and Gorka had responded from across the Rose Garden by suggesting that Mr. Karem was a "journalist" only with air quotes. It was only after Mr. Karem invited Mr. Gorka to "go outside" that Mr. Gorka asserted that he had been threatened and began to cross the Rose Garden to confront Mr. Karem. In particular, any suggestion that the invitation to "go outside" was designed to defuse a situation *after* Mr. Gorka had acted aggressively is flatly contrary to the sequence of events.

In addition, when Mr. Karem made this comment, his body language did not remotely suggest an effort to defuse tension. Instead, Mr. Karem's hand gesture (a closed hand, thumb extended, gesturing over his shoulder), his noticeably cocked eyebrow, and his tone of voice³² all indicate an aggressive posture inviting further confrontation—not someone trying to calm down the situation or genuinely interested in talking.

Consistent with Mr. Karem's body language, the videos show that other people contemporaneously understood Mr. Karem's comment as an invitation to a physical altercation. It appears that Mr. Gorka understood it as a threat and repeatedly asked Mr. Karem if he was "threatening him." Other individuals responded at the time as if it were a threat. One individual yelled, "hit him Gorka!"³³ A second individual told Mr. Karem that Mr. Gorka would "kick your punk ass."³⁴ A third individual, speaking to Mr. Karem just over a minute later, explicitly characterized it as a threat:

Individual: "You just threatened Gorka just a minute ago. You told him to go outside."

Mr. Karem: "I said I would talk to him. I didn't threaten. I was standing right here."

Individual: "Everybody knows what that means. What were you going to do?"

³² Video 2, <https://youtu.be/HMVmkTFedUc?t=10> (at 0:10–0:14).

³³ E.g., Video 2, <https://youtu.be/HMVmkTFedUc?t=17> (at 0:17).

³⁴ E.g., Video 2, <https://youtu.be/HMVmkTFedUc?t=31> (at 0:31–0:34).

Mr. Karem: “No, it means talk.”

Individual: “You could talk to him right here. Why would you take him outside?”

Mr. Karem: “I’d be happy to talk.”

[cross-talk]

Mr. Karem: “I didn’t threaten to kick his butt. I said I would talk to him.”

Individual: “We all know what that means.”³⁵

Mr. Karem claims that he was “a little discombobulated by [Mr. Gorka’s] aggression.”³⁶ But the videos of the incident do not show Mr. Karem reacting in a manner that suggests discombobulation. Instead, Mr. Karem advances toward Mr. Gorka as he approaches, within the limits permitted by the rope line defining the press pen.³⁷

Mr. Karem’s further conduct also belies any claim that he was trying to de-escalate the situation. After he had invited Mr. Gorka to “go outside,” after Mr. Gorka had asked if that was a “threat,” after Mr. Gorka and Mr. Karem had exchanged words, and after Mr. Gorka had turned to walk away, Mr. Karem sought to continue the confrontation. As Mr. Gorka was leaving, Mr. Karem shouted loudly after him “Go home! Go home!” and “Hey Gorka, get a job!” and then stepped over the partially fallen rope line to pace in front of the other journalists.³⁸ Those taunts are inconsistent with any intent to de-escalate the situation.

Another factor also weighs against Mr. Karem’s interpretation of the events. Because Mr. Karem’s characterization of his words depends critically on the asserted sincerity of his invitation to talk and requires convincing me of his credibility with respect to that assertion, I find it significant that Mr. Karem chose not to meet with me in person to explain his conduct after I expressly invited him to do so.³⁹

Finally, Mr. Karem’s subjective intent is not, in any case, dispositive here. Even if I credited Mr. Karem’s assertion that his sincere subjective intent was to de-escalate the situation, it would not alter the fact that his comments were objectively inappropriate to the circumstances. Even if Mr. Karem subjectively believed that his actions were non-threatening, he should have known how a reasonable observer would have reacted to these repeated confrontations, as many

³⁵ E.g., Video 4, <https://youtu.be/mNySuQFh2YE?t=133> (at 2:13–2:36); Video 6, <https://twitter.com/dcexaminer/status/1149451612227887104> (at 0:50–1:12).

³⁶ Karem Statement at 3.

³⁷ Video 2, <https://youtu.be/HMVmkTFedUc?t=17> (at 0:15–0:19).

³⁸ E.g., Video 1, <https://youtu.be/VNfPaZ4lpsw?t=40> (at 0:40–1:09); Video 2, <https://youtu.be/HMVmkTFedUc?t=23> (at 0:23–0:33); Video 4, <https://youtu.be/mNySuQFh2YE?t=25> (at 0:25–0:46); Video 5, <https://youtu.be/zRogWTuS5HI?t=11> (at 0:11–0:31); Video 7, <https://twitter.com/Reuters/status/1149445607288950784> (at 0:17–0:31).

³⁹ I have noted that, at the August 8 meeting, Mr. Dupree and Ms. Champion said that Mr. Karem would be happy to come to a subsequent meeting if I wanted to speak with him. This, however, is beside the point. Mr. Karem, through counsel, asked to meet in person. I agreed to that meeting, specifically stated that I was happy to meet with Mr. Karem, the meeting was scheduled, and Mr. Karem did not attend, nor did he claim any conflict that prevented him from attending.

observers did, in fact, react at the time. His remarks had the predictable effect of offending and provoking White House guests, and constituted a significant lapse in judgment, regardless of Mr. Karem's intent. The objective fact is that Mr. Karem's words elicited a predictable response and that combination of events prompted a Secret Service agent to intervene due to a perceived risk of a physical altercation. It is inconsistent with widely-shared understandings and norms of media professionalism to yell statements that could reasonably be interpreted as insults or threats to guests in the Rose Garden, to repeatedly confront those guests afterward, and to disobey instructions from White House staff.

Decision

Based on the facts described above, I conclude that Mr. Karem's actions, as viewed by a reasonable observer, (1) insulted invited guests of the White House, (2) threatened to escalate a verbal altercation into a physical one to the point that the Secret Service deemed it prudent to intervene, and (3) re-engaged with Mr. Gorka in what quickly became a confrontational manner while repeatedly disobeying a White House staffer's instructions to leave. Mr. Karem's conduct, taken as a whole, was unacceptable and disruptive, and requires a response to ensure that it does not happen again.

I have carefully considered a range of potential responses to Mr. Karem's actions, including permanently revoking his hard pass, temporarily suspending his hard pass, providing a written warning, and taking no action. In my judgment, a permanent revocation would be too great a punishment for the conduct involved here. Taking no action, on the other hand, would be insufficient to deter Mr. Karem and other members of the press from disrupting White House events.

I have concluded that a temporary suspension of Mr. Karem's hard pass is an appropriate response. It properly accounts for Mr. Karem's stated need for his press pass and it imposes no greater a restriction than is necessary for an effective sanction. The purpose of a hard pass is to provide day-to-day access to the White House campus so that a member of the press can report and ask questions of officials who are taking questions. But a hard pass must be used in a manner that is respectful of the White House property and grounds in light of the extensive access it provides. There is a widely-shared understanding that at all times at White House press events, members of the press must act professionally, maintain decorum and order, and obey instructions from White House staff.⁴⁰ Disruptive behavior, such as Mr. Karem's, is clearly prohibited. Moreover, I note that Mr. Karem did not use the access granted by his hard pass for the journalistic purposes for which it is granted. Instead, Mr. Karem used the access granted by his hard pass to insult invited guests, to make intemperate comments that threatened to escalate a verbal confrontation into a physical altercation, and to repeatedly disobey the instructions of White House staff to leave with the rest of the members of the press after the conclusion of the event. Mr. Karem's actions escalated the situation to the point that the Secret Service deemed it prudent to intervene to ensure that verbal confrontations involving Mr. Karem would not escalate into a physical one.

⁴⁰ Preliminary Decision at 1.

The only less restrictive alternative that you have proposed is a written warning. After considering that suggestion, I conclude that a written warning would be insufficient given the serious nature of Mr. Karem's misconduct and the ineffectiveness that a written warning would have in deterring similar misconduct by Mr. Karem or others in the future. On the present record, there is no indication that Mr. Karem would take to heart a written warning that his behavior was inappropriate. I base that conclusion on at least two factors. First, throughout the twelve combined pages of his two written submissions prepared by counsel and his five-page personal statement, Mr. Karem has nowhere acknowledged even the slightest indication of any regret for his conduct or recognition that it could, even possibly, have transgressed any boundaries of professional conduct for the press corps. Instead, Mr. Karem's statement suggests that, in his view, it *is* appropriate to "nearly [get] into blows with a guest in the Rose Garden."⁴¹ In short, Mr. Karem seems to be oblivious to the fact that his conduct was wrong. Second, Mr. Karem has continued to insist that his invitation to Mr. Gorka to "go outside" was sincerely meant as a de-escalatory invitation for a genuine conversation. For all the reasons explained above, I find that assertion lacking in credibility. Mr. Karem's insistence on continuing to press a characterization of events that is plainly incompatible with his words, gestures, tone, and actions in the Rose Garden indicates to me that some form of sanction beyond a mere warning letter is warranted.

I have carefully considered your assertion that a 30-day suspension is too harsh, and I disagree. A warning would be insufficient for the reasons above. Although you have not suggested that a suspension of any lesser length would be appropriate, I have considered that alternative as well. In light of the seriousness of Mr. Karem's conduct, however, I do not believe that a suspension of fewer than 30 days would be proportionate to the nature of his conduct, which turned a Rose Garden event into a spectacle and risked a physical altercation.

You have raised several additional arguments on Mr. Karem's behalf, which I address below.

First, you argue that "there are no so-called 'widely understood understanding[s]'" that would have put Mr. Karem on notice that his conduct was improper.⁴² I find that argument wholly insubstantial. Members of the press certainly understand that, in any professional context, trading insults with guests at a venue where a press event is taking place and escalating a verbal confrontation with an invitation to "go outside" is unacceptable behavior. Mr. Karem does not seriously contend that he lacked actual notice that it is prohibited conduct in the White House for a member of the press to disrupt a White House press event by threatening guests and escalating a verbal altercation with insinuations of physical violence such that the Secret Service deems it prudent to intervene, or to repeatedly disobey a staffer's instructions to leave. Indeed, Mr. Dupree and Ms. Champion explicitly confirmed during our in-person meeting that they were not second-guessing the White House's need to ensure basic decorum, order, and security.

⁴¹ Karem Statement at 1 ("CBS White House Correspondent Bill Plante once, in a story widely told by his peers, nearly got into blows with a guest in the Rose Garden.").

⁴² Initial Response at 5.

Second, you assert that I “failed to conduct a reasonable investigation before reaching [my] preliminary decision” because I “did not speak to a single witness.”⁴³ That argument rests on a fundamentally flawed premise. There was no need for an investigation involving witness interviews here because Mr. Kareem’s words and conduct were caught on multiple videos recorded from several different angles. You have not provided any basis for believing that the imperfect recollections of witnesses would somehow provide a more accurate basis for assessing events than the video and audio recordings that capture exactly what happened second by second. Where there was one interaction that was potentially relevant but could not be heard on any of the videos—the Secret Service agent’s interaction with Mr. Kareem—the Secret Service agent was interviewed. Mr. Kareem has not disputed the Secret Service agent’s observations and recollection, nor have you identified any specific way in which additional investigation could uncover relevant facts that would be important to my decision. Indeed, as we explained to Mr. Dupree and Ms. Champion on August 8, Mr. Kareem knows which members of the press witnessed events that day and he was free to provide statements from them if he believed they would be useful. You have neither provided any witness statements nor even provided any plausible basis for thinking that witness statements could possibly bring to light different information that would justify a different conclusion in this matter.

In that regard, it is worth noting that the subjective, after-the-fact “impressions” of witnesses would not be particularly relevant to my decision, because my decision here involves determining whether Mr. Kareem breached standards of conduct based on an objective assessment of his actions, which can be determined from the objective facts recorded on tape.⁴⁴ Whether one individual or another might have believed that a particular comment was funny or light hearted is not the critical point. A poll of the opinions of everyone present is not required to determine the objectively reasonable understanding of Mr. Kareem’s statements and actions.

Third, you have made wholly unfounded accusations that taking action against Mr. Kareem for his conduct on July 11 is actually a pretext for unconstitutional content-based and viewpoint-based discrimination against Mr. Kareem. Those accusations are baseless. The content and viewpoint of Mr. Kareem’s reporting have played no role in this decision. Indeed, admissions in Mr. Kareem’s own submissions disprove the theory that there has been some effort to stifle his speech. Both Mr. Kareem’s initial response and his statement admit that the President has called on Mr. Kareem and answered Mr. Kareem’s questions several times since the incident in the Rose Garden on July 11, 2019.⁴⁵ Indeed, as Mr. Kareem admits, the President answered two questions from Mr. Kareem, in what you admit was “a rather cordial exchange,” on August 2, shortly before I issued notice of my preliminary decision.⁴⁶ These admissions confirm that the content and

⁴³ Supplemental Response at 1.

⁴⁴ You claim that I have “elected to ignore publicly-available evidence that Mr. Gorka has trumpeted his confrontation with Mr. Kareem, bragging that he took on the ‘fake news industrial complex,’ as well as evidence that the President himself viewed the events as humorous.” Supplemental Response at 2. I have not ignored these points. I have considered them, but I reject them. The fact that Mr. Gorka may have touted his response to Mr. Kareem’s taunts to spin the whole event to his advantage in the media is irrelevant. Mr. Gorka is a known media figure and such a response is to be expected. It does not alter the original impropriety of Mr. Kareem’s conduct. Similarly, the President’s tweet suggesting that Mr. Gorka had the better of the exchange does not undercut my conclusion that Mr. Kareem’s conduct was improper and does not suggest that it was merely a “humorous” interlude that warrants no sanction.

⁴⁵ Initial Response at 7; Kareem Statement at 4.

⁴⁶ Kareem Statement at 4.

viewpoint of Mr. Karem's journalism have nothing to do with this decision. If the White House had been engaged in some effort to "silenc[e] a journalist known for tough questioning,"⁴⁷ as you claim, the President could have simply ignored Mr. Karem and refused to answer any of his questions. The very fact that the President has continued to call on Mr. Karem demonstrates that there has been no effort to silence his journalism.

Fourth, you have argued that Mr. Karem sought "multiple times" to discuss the July 11 incident with me and that when my office rescheduled a meeting with him it was done deliberately to delay speaking with him at all until after his hard pass had been suspended.⁴⁸ All of these assertions are false. Mr. Karem's initial submission claims that, after July 11, Mr. Karem "reached out to [my] office *multiple times to discuss the incident*."⁴⁹ In his personal statement, Mr. Karem modified that claim to assert solely that he had been "trying to schedule an interview with" me "for some time" and that he had "hop[ed] to discuss" the events of July 11, 2019 with me.⁵⁰ The only contact from Mr. Karem of which I had been aware was an effort to schedule an off-the-record meeting as a get-to-know-you meeting after I started as Press Secretary on June 25. That meeting was scheduled and then canceled more than once, just as I have canceled similar meetings with more than a dozen other reporters due to other matters arising on my schedule as Press Secretary. At the meeting with Mr. Dupree and Ms. Champion on August 8, we explained that we were not aware of any contacts from Mr. Karem seeking to discuss the July 11 incident and asked you to provide any emails or other evidence showing that he sought to discuss the incident with me. The emails that Mr. Karem has submitted in response do not support your assertions.⁵¹ None of them mentions or even hints at a desire to speak with me about the events of July 11, 2019, and they certainly do not suggest that Mr. Karem attempted "multiple times to discuss the incident" with me. One email chain simply thanks me for the format of a briefing with Secretary Mnuchin and provides no support whatsoever for your assertions.⁵² The other set of emails involved an initial request made on July 8, 2019 for a ten-minute off-the-record meeting—before the events in the Rose Garden on July 11. That earlier request is then referenced and renewed in emails after July 11 when my schedule required rescheduling our meeting.⁵³ Those emails involved simply the request for a get-to-know-you meeting that I mentioned above. There is no indication in any of the emails, however, that in Mr. Karem's efforts to reschedule that meeting, which was initially requested on July 8, he was actually hoping to discuss with me the events of July 11.

Fifth, you have emphasized the fact that some of the invited guests made comments to Mr. Karem before Mr. Karem's "demonic possession" comment, such as, "don't be sad."⁵⁴ The assertion that "he started it first," however, is not a justification for a member of the press to insult invitees at the White House, nor is it a license to escalate the situation, and it certainly does not absolve Mr. Karem of responsibility for his conduct. In addition, your argument on this

⁴⁷ Initial Response at 7.

⁴⁸ *Id.* at 3.

⁴⁹ Initial Response at 3 (emphasis added).

⁵⁰ Karem Statement at 4.

⁵¹ See 8/9/2019 B. Karem Emails in Supp. of Supplemental Response.

⁵² See Email from B. Karem to S. Grisham (July 16, 2019 1:53 PM).

⁵³ See Email from B. Karem to A. LeHardy (July 9, 2019 6:40 PM); Email from B. Karem to S. Grisham (July 9, 2019 12:54 PM).

⁵⁴ Karem Statement at 2; Video 4, <https://youtu.be/mNySuQFh2YE> (at 0:00–0:02).

point ignores the fact that there is a fundamental difference between invited White House guests and the press. The press is present to cover events and to ask questions of those officials who are taking questions. Openly insulting a gathering of guests is never appropriate conduct for a member of the press at the White House, even if one of the guests has directed remarks to the press.

Sixth, for similar reasons, your complaint that I am not imposing consequences on others involved—by which I assume you mean Mr. Gorka or any guests who made comments to Mr. Kareem—is misplaced. Mr. Gorka and other individuals were present in the Rose Garden as invited guests, not members of the press. My responsibility as Press Secretary involves credentialing members of the White House press and providing the press access to the White House campus so that they can do their jobs. In that role, I am responsible for ensuring that basic standards of conduct are maintained by the press so that White House events can proceed without disruption and with a basic level of decorum. I am not the behavior czar for everyone who enters the campus. I have no authority to dictate the conduct of all guests invited to the White House, nor do I have authority to revoke press passes for guests who did not use a press pass for access to the event. Mr. Gorka, in particular, does not hold a press pass. The assertion that Mr. Kareem was “single[d] out”⁵⁵ is thus incorrect. You have not identified any members of the press whose conduct in the Rose Garden on July 11, 2019 was remotely comparable to Mr. Kareem’s or that warrants any sanction.

In addition, Mr. Kareem’s hard pass is not being suspended merely for a single insult that violates what you characterize as a “no-taunting rule.” Instead, as explained above, it is the totality of the conduct in this case that warrants such a sanction, including disrupting the press event with a persistent series of comments that threatened to escalate a verbal altercation into a physical one to the point where the Secret Service had to intervene—and then disobeying staff instructions to leave while trying to re-engage with Mr. Gorka. You have not identified any member of the press who engaged in equivalently egregious and persistent conduct that day.

Seventh, you have speculated that this decision has been “potentially made in coordination with Mr. Gorka.”⁵⁶ That is false. As I confirmed during the August 8, 2019 in-person meeting, I am the decision-maker in this matter. I have informed you of the materials on which my decision is based, and I can state categorically that I have not coordinated or communicated with Mr. Gorka at all about Mr. Kareem or the events in the Rose Garden on July 11, 2019. Your request for discovery of any communications between anyone at the White House and Mr. Gorka is equally baseless, and you are not entitled to review White House communications based on unfounded speculation. However, even if Mr. Gorka had contacted me to complain about Mr. Kareem’s conduct and had requested that Mr. Kareem be sanctioned in some way, there would not have been anything improper about such a request from a guest who had been insulted and who felt threatened, and it would have been perfectly appropriate for me to take such a request into account. As it happens, no such contact occurred.

Eighth, Mr. Dupree and Ms. Champion argued that Mr. Kareem’s conduct was less deserving of punishment than the conduct of Jim Acosta at a press event on November 7, 2018,

⁵⁵ Supplemental Response at 3.

⁵⁶ Initial Response at 6.

because Mr. Karem's conduct occurred after the press event had ended, the President was not present, and there was no physical contact here, whereas Mr. Acosta's conduct occurred during a press event while he was asking questions of the President and there was incidental physical contact with an intern. *See generally* Tr. of Mot. Hr'g, ECF No. 22, *Cable News Network, Inc. v. Trump*, No. 1:18-cv-02610-TJK (D.D.C. Nov. 16, 2018). I have considered these points, and I disagree. Mr. Karem's conduct in this case was completely different in kind from the event in November 2018, and it warrants a significant sanction. Persistently taunting others in a way that threatens to escalate a situation into a physical altercation and prompts Secret Service intervention is always prohibited. The fact that the press event had ended and Mr. Karem's conduct was not related in any way to asking questions during the press event serves only to reduce First Amendment concerns for imposing sanctions on his conduct. And to the extent there was physical contact involving Mr. Acosta and the intern, it appeared incidental and fleeting, whereas Mr. Karem's words and actions in this case were deliberate, intentional, and persistent, and threatened to escalate into an actual physical altercation.

* * *

As explained above, Mr. Karem's White House hard pass is suspended effective immediately through Saturday, September 14, 2019. Please inform Mr. Karem that if Playboy has another correspondent they wish to send to the White House during his absence, they should contact me and we will arrange a press pass as swiftly as possible.

Sincerely,



Stephanie A. Grisham
Assistant to the President
White House Press Secretary

CC: Thomas Dupree, Esq.
Ann Champion, Esq.

Exhibit 11

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

----- Forwarded message -----

From: **Brian Karem** <brianjkarem@gmail.com>

Date: Tue, Jul 9, 2019 at 12:54 PM

Subject: Re: [EXTERNAL] checking in for a time to talk

To: LeHardy, Annie H. EOP/WHO <Anne.H.LeHardy@who.eop.gov>

Got it. I just want to touch base sooner rather than later. Thanks. Look forward to sitting down with her next week.

I thought it had something to do with that ...or travel.

Thanks again.

B

On Tue, Jul 9, 2019 at 10:45 AM LeHardy, Annie H. EOP/WHO <Anne.H.LeHardy@who.eop.gov> wrote:

Off the record –

As you can imagine – her schedule is incredibly busy as she focuses on meeting her new staff and getting up to speed on policies. All media meetings are being scheduled over the next couple of weeks.

From: Brian Karem <brianjkarem@gmail.com>

Sent: Tuesday, July 9, 2019 10:42 AM

To: LeHardy, Annie H. EOP/WHO <Anne.H.LeHardy@who.eop.gov>

Subject: Re: [EXTERNAL] checking in for a time to talk

Ok, thanks for the update. What happened?

B

On Tue, Jul 9, 2019 at 9:19 AM LeHardy, Annie H. EOP/WHO <Anne.H.LeHardy@who.eop.gov> wrote:

Hi Brian – we are going to have to reschedule your meeting with Stephanie. Let's circle back next week for a time that works.

Thank you!

From: Brian Karem <brianjkarem@gmail.com>
Sent: Monday, July 8, 2019 5:04 PM
To: LeHardy, Annie H. EOP/WHO <Anne.H.LeHardy@who.eop.gov>
Subject: Re: [EXTERNAL] checking in for a time to talk

Sounds good.

On Mon, Jul 8, 2019 at 4:57 PM LeHardy, Annie H. EOP/WHO <Anne.H.LeHardy@who.eop.gov> wrote:

Sure – let's plan on Friday at 11AM

From: Brian Karem <brianjkarem@gmail.com>
Sent: Monday, July 8, 2019 3:10 PM
To: Grisham, Stephanie A. EOP/WHO <Stephanie.A.Grisham@who.eop.gov>; LeHardy, Annie H. EOP/WHO <Anne.H.LeHardy@who.eop.gov>
Subject: [EXTERNAL] checking in for a time to talk

Anne;

I spoke with Stephanie and she said you could set up a time this week for a brief off-the-record conversation. I think 10 minutes at most would do it.

Thanks for your help. And welcome back to the West Wing everybody!

B

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

----- Forwarded message -----

From: **Brian Karem** <brianjkarem@gmail.com>

Date: Mon, Jul 15, 2019 at 6:40 PM

Subject: Catching up

To: LeHardy, Annie H. EOP/WHO <Anne.H.LeHardy@who.eop.gov>

Annie;

Great to see you again. Just following up on the request. I know a lot of folks are looking for time, but we were initially scheduled to talk (Me with Stephanie) for about 10 minutes last week.

Anytime this week that she has free for that type of meeting, I'm free.

Just looking for availability.

B

----- Forwarded message -----

From: **Brian Karem** <brianjkarem@gmail.com>

Date: Tue, Jul 16, 2019 at 1:57 PM

Subject: Re: [EXTERNAL] Checking in

To: LeHardy, Annie H. EOP/WHO <Anne.H.LeHardy@who.eop.gov>

Great. Thanks for the update.
Just let me know when and where.

B

On Tue, Jul 16, 2019 at 1:56 PM LeHardy, Annie H. EOP/WHO <Anne.H.LeHardy@who.eop.gov> wrote:

Hi there –

Off the record:

I have received all of your emails. I am taking everyone's requests as they come in. As of now, she will have an availability to meet with you during the week of August 5th.

Thank you

Annie

From: Brian Karem <brianjkarem@gmail.com>

Sent: Tuesday, July 16, 2019 1:51 PM

To: LeHardy, Annie H. EOP/WHO <Anne.H.LeHardy@who.eop.gov>

Subject: [EXTERNAL] Checking in

Annie;

Did you get my last email?

B

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

----- Forwarded message -----

From: **Brian Karem** <brianjkarem@gmail.com>

Date: Tue, Jul 16, 2019 at 3:35 PM

Subject: Re: [EXTERNAL] Thanks

To: Grisham, Stephanie A. EOP/WHO <Stephanie.A.Grisham@who.eop.gov>

Stephanie;

My vote may not count for much but for what it's worth thanks for the effort.

B

On Tue, Jul 16, 2019 at 3:19 PM Grisham, Stephanie A. EOP/WHO <Stephanie.A.Grisham@who.eop.gov> wrote:

I agree and hope we can have more like that. Thanks for the feedback.

From: Brian Karem <brianjkarem@gmail.com>

Sent: Tuesday, July 16, 2019 1:53 PM

To: Grisham, Stephanie A. EOP/WHO <Stephanie.A.Grisham@who.eop.gov>

Subject: [EXTERNAL] Thanks

Stephanie;

Thank you for the Mnuchin briefing. It was great to just ask policy questions.

If it means anything those are far more beneficial to the administration than the driveway gaggles.

| B

Exhibit 12

The Fix • Analysis

'You're a parent!' Things got personal in the White House briefing room.

The Washington Post



By **Callum Borchers**

June 14, 2018

White House media briefings are often contentious, but Thursday's question-and-answer session got personal.

During one exchange, White House press secretary Sarah Huckabee Sanders said to CNN reporter Jim Acosta, a frequent sparring partner, "I know it's hard for you to understand even short sentences."

Acosta had asked Sanders about Attorney General Jeff Sessions's attempt, earlier in the day, to use the Bible to justify the Trump administration's immigration policies, which include splitting up families that arrive at U.S. borders seeking asylum.

"I would cite you to the Apostle Paul and his clear and wise command in [Romans 13](#) to obey the laws of the government because God has ordained them for the purpose of order," Sessions [said](#) in Fort Wayne, Ind.

Other biblical passages, including some written by Paul, have been cited by advocates of softer immigration policies. In [Romans 12](#), for example, Paul wrote: "Share with the Lord's people who are in need. Practice hospitality. ... Live in harmony with one another. Do not be proud, but be willing to associate with people of low position."

"Where in the Bible does it say that it's moral to take children away from their mothers?" Acosta asked.

"I'm not aware of the attorney general's comments or what he would be referencing," Sanders replied. "I can say that it is very biblical to enforce the law."

Sanders and Acosta went back and forth until Sanders insulted Acosta's comprehension skills. On a telecast of the briefing, another reporter could be heard scolding Sanders for a "cheap shot."

Sanders then falsely asserted that the Trump administration is separating children from their parents "because it's the law, and that's what the law states." In fact, separation is not required by law but is a Trump administration practice that White House Chief of Staff John F. Kelly [calls](#) a "tough deterrent."

[\[Fact-checking immigration spin on separating families\]](#)

Sanders gave the next question to CBS's Paula Reid, who performed an on-the-spot fact-check.

"There is no law that requires families to be separated at the border," Reid said. "This was the administration's choice."

Unmoved, Sanders continued to insist, falsely, that the Trump administration is simply doing what the law mandates. When Reid asked whether the administration will “take responsibility for its policy change,” Sanders replied, “It's not a policy change to enforce the law.”

“Don't you have any empathy? Come on, Sarah, you're a parent. Don't you have any empathy for what these people are going through,” reporter stands up to ask [@PressSec](#) after [@PaulaReidCBS](#) asks about families being separated at the border <https://t.co/mZ4B11O1uj> [pic.twitter.com/G8qWhgJdVK](https://t.co/mZ4B11O1uj)
— CBS News (@CBSNews) June 14, 2018

Sanders tried to move on from Reid, but Brian Karem, executive editor of the Sentinel newspapers in Maryland, interjected.

“Come on, Sarah, you're a parent!” Karem said. “Don't you have any empathy for what these people are going through?”

“Brian, guys, settle down,” Sanders answered. “I'm trying to be serious, but I'm not going to have you yell out of turn.”

Karem kept going. “These people have nothing,” he said.

“Hey, Brian, I know you want to get some more TV time, but that's not what this is about,” Sanders said.

Karem kept going.

“Answer the question,” he said. “It's a serious question. These people have nothing. They come to the border with nothing, and you throw children in cages. You're a parent. You're a parent of young children. Don't you have any empathy for what they go through?”

“Jill, go ahead,” Sanders said to another reporter, ignoring Karem.

The final question went to CNBC's Eamon Javers, who asked about a [CBS report](#) that Sanders has told friends that she plans to quit by the end of the year. Sanders neither confirmed nor denied the report.

“In terms of personnel announcements, I don't have any to make,” she said. “I can tell

you that I show up here every day. I love my job. I'm glad to work for the president. And each and every day, I'll pray for clarity and discernment on what my future looks like."

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Exhibit 13

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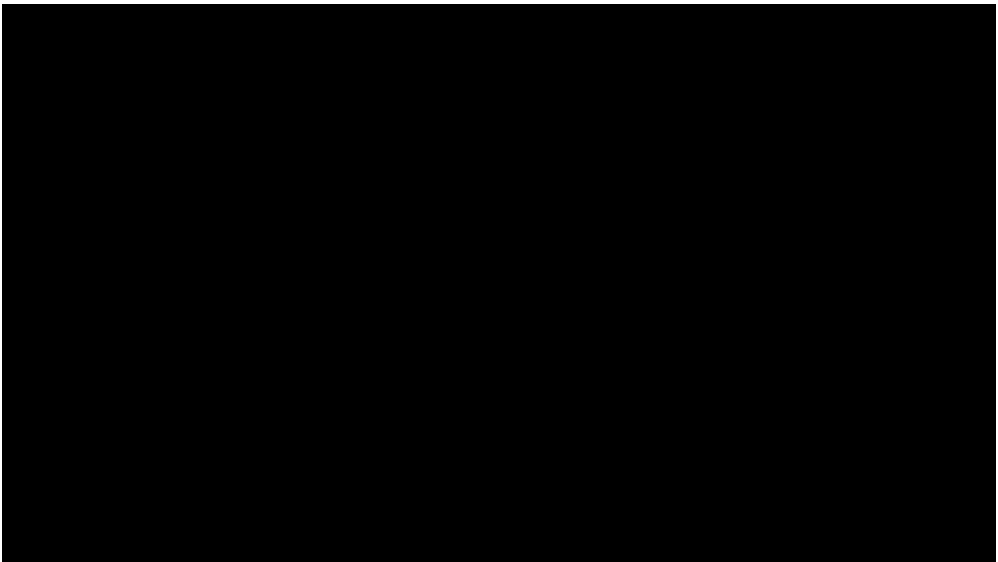
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Fox News' Jesse Watters: Reporters who act like 'a wild animal' should lose press passes

BY MORGAN GSTALTER - 06/14/18 07:42 PM EDT



Fox News host Jesse Watters blasted a pair of reporters covering the White House on Thursday, suggesting they have their press credentials revoked after a contentious briefing.

Watters said during an appearance on Fox News' "The Five" that the two reporters, Playboy's Brian Karem and CNN's Jim Acosta, "don't belong" in the White House briefing room.

"They are jokes," Watters said during the program. "They need to start ripping press passes away. If you're going to act like a wild animal, you don't belong there."

Acosta responded to Watters on Twitter after the segment aired.

"This from a lapdog for the White House," he retorted.

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Democratic official sees Steyer with early on-the-ground 'advantage' in Iowa

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Iowa Democratic official: Trump tariffs starting to hurt his standing in the state

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This from a lapdog for the White House. <https://t.co/cJkJh2aZOi>

— Jim Acosta (@Acosta) [June 14, 2018](#)

Karem sparred with White House press secretary Sarah Huckabee Sanders during Thursday's media briefing, [questioning whether she had "any empathy"](#) over the Trump administration's policy of separating families who illegally cross the border into the U.S.

Acosta then feuded with Sanders after she invoked the Bible as justification for separating families.

"Where in the Bible does it say that it's OK to take children away from their parents?" Acosta pressed. "You just said it's in the Bible to follow the law."

"I know it's hard for you to understand even short sentences, I guess, but please don't take my words out of context," Sanders fired back.

Asked about Jeff Sessions' claim that separating children from parents is rooted in the Bible, Sanders says "it is very biblical to enforce the law."

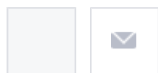
She then calls [@Acosta](#) dumb, saying, "I know it's hard for you to understand even short sentences." pic.twitter.com/LnQrBUvDBe

— Aaron Rupar (@atrupar) [June 14, 2018](#)

Watters said Thursday evening that it was inappropriate for the reporters to interject with their opinions and have a "meltdown."

"I don't care if you have opinions like that," Watters said. "Be an analyst. Go debate it on CNN on primetime but don't pretend to be a non-partisan correspondent and then meltdown like that and embarrass your integrity."

TAGS JEFF SESSIONS SARAH HUCKABEE SANDERS JIM ACOSTA WHITE HOUSE PRESS BRIEFING PRESS CREDENTIALS JESSE WATTERS THE FIVE



Democratic strategist predicts Biden gaffes won't hurt him in long run

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Exhibit 14

An Ode to Sarah Huckabee Sanders From the Enemy

Brian Karem reflects on the departure of his sparring partner

Written by Brian Karem
June 18, 2019

Sarah Sanders is a true believer. Conditioned by an upbringing rooted in Christian rhetoric that's impervious to reason, she views the world through a lens in which everything exists in absolutes. The world is absolutely against the believers, and only the believers know the truth.

It is scary enough to deal with this mindset in religious circles, but Sanders has applied it to politics, and to Donald Trump. It explains her defenses of Trump against all odds, her unflappable ability to tell the most egregious lies, to deny facts and to look upon those who stand against the president—or in the case of reporters asking questions, as heathens and/or unwashed sinners incapable of understanding “The Truth” she claims to provide.

It is why she can declare, with a straight face, that she wants to be remembered as being transparent and honest. Privately, Sanders can be kind and funny. I have had interactions with her—off-the-record and in her office—that have been amicable and memorable. In a gaggle with a small

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After all, the press is still here. Publicly, we have had major disagreements. Though she has been in close contact with members of the media more or less (and lately far, far less) on a daily basis, she still hasn't hesitated to side with the president when he calls us the enemy of the people. She has openly accused us of providing fake news and at one point, drew my ire when she encouraged us to watch a piece of recorded fiction and then denounced reporters for not believing the fiction.

Any claims of Christian good charity from this administration melted away when I confronted her about having empathy for young refugees the administration puts in cages. Her tenure as a presidential press secretary is replete with propaganda instead of facts and the details will be studied in post-secondary education circles for years.

Her lack of experience exacerbated the situation and further helped to drive a wedge between Trump and millions of American voters—though the administration doesn't see it that way.

But I do not endorse those who shame her for a variety of shallow and meaningless physical reasons, nor will I bother indulging in such folly.

Sanders, who announced last week she is leaving, walks away from the White House leaving a smoldering caldera of scorched earth and the desecration of our founding fathers precepts which metaphorically represent the Armageddon her religion taught her. She was never qualified to hold the post of Press Secretary. She is naïve, inexperienced and didn't know the purpose of the office or how to deal with the press in a functional way. During the last two years, she abandoned the traditional role of the Press Secretary in favor of being the president's chief defender; in doing so, she never faltered come hell, high water or a lack of factual information.

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Sanders did it proudly and with impunity. Larry Speakes, Ronald Reagan's press secretary, once told reporters we shouldn't tell the administration how to stage the news and they wouldn't tell us how to report it. This administration, with Sanders' assistance, wants to tell us what to report, how to do it and admonish us for not doing exactly what is dictated.

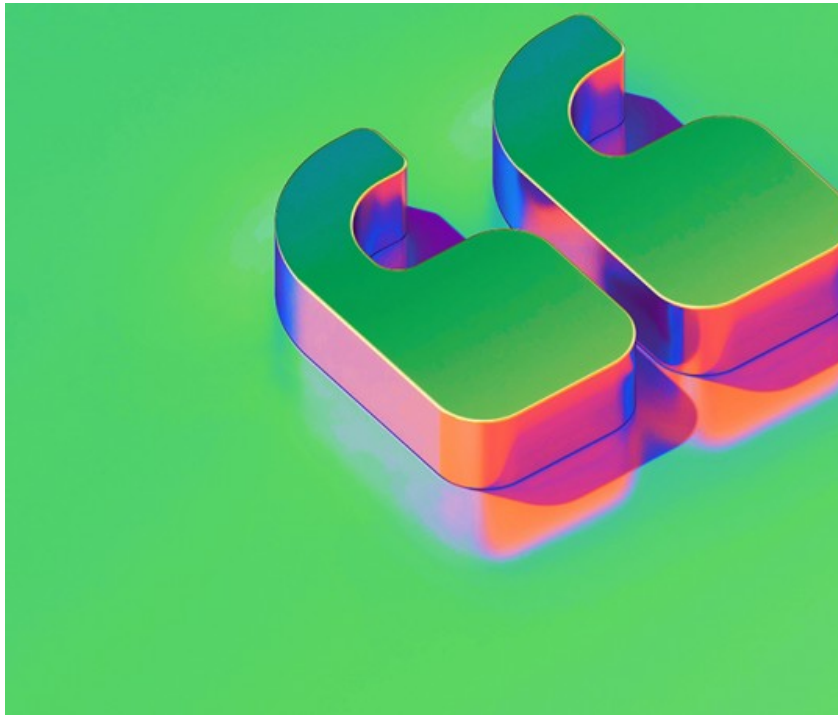
As a direct result, reporters across this country have endured hate mail and death threats. We're still here. Sanders, guided by Trump, eliminated the daily press briefing and replaced it with a series of driveway excursions conducted by administration officials, which gives her cover to say the administration is being transparent even though no useful information was ever provided to the public. Press secretaries used to carry a briefing book thick with administration policies, facts to supply and talking points on issues to cover. It's gone.

Starting with Ronald Reagan, the first president I covered, and until this president took office, press secretaries supplied morning background "gaggles" to bring the press up to speed on issues facing the administration and the Republic. Briefing papers with facts and opinions were routinely disseminated to the press. I'm old enough to remember when they were printed out instead of emailed. Today, there is none of that.

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The American Press Is Broken. Here's How Journalists Can Fix It

We are pelted with propaganda and left without facts to back up anything the president or members of his administration say. Perhaps Kellyanne Conway is being hunted for violating the Hatch Act because this administration is too feeble to provide us facts on any issue, and that vacuum of informational need is being filled with the rotting blow flies resting in Conway's consciousness.

To be fair, it is damn near impossible to provide vetted facts to the public in a Trump administration. Trump is in over his head; Trump the incompetent will save us from Trump the fascist, as more than one former administration official and pundit have opined. "Don't try to over analyze us," former communications director Bill Shine once told me. He likened his job to being the guy who cleaned up after the circus left.

That is the handicap dealt to Sanders. Her lack of experience exacerbated the situation and further helped to drive a wedge between Trump and millions of American voters—though the

FIND SOMETHING NEW

undone by a communication staff that didn't do the homework, didn't know the issues and at one point referred to the Posse Comitatus Act as "that Hakuna Matata thing."

Whoever steps into the role of press secretary—if anyone does—will have to slowly rebuild the trust with the American people destroyed by the ravages of a press secretary who had no historic perspective of her office and cared little for such details. She has been called Trump's battering ram, a smooth dealer in disinformation akin to Goebbels and other propagandists.

Again, the truth is far scarier.

She is all those things not because she knows Trump is a fraud and she's in on the joke like Conway, but because she believes. She can forgive Trump's lies and turn a blind eye to them because those who question Trump, in her mind, just don't get it. He's the new savior. The man on a mission. She and others think Trump's being vilified like Jesus, and I've heard her privately make allusions to that very sentiment.

It isn't just frightening that Sanders lied to us, but that she represents millions of people who eagerly swallow the lies, continue to smile at you off camera and will even be cordial to you while never once thinking you are human or worthy of the redemption the true believer smugly believes they deserve. It is that disassociation from reality that is truly frightening.

Conway, on the other hand is an honest hypocrite. You just know when you look at her she doesn't for one instant believe anything she says. You know she's lying and she knows you know it.

The frustration of covering this administration is embodied in Sanders, but it is unfair to blame her for everything.

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Pompeo appeared to be threatening a war with Iran, and Trump told ABC he'd take information from a foreign adversary in the next election. It was all greeted with muted indifference. But there was a resounding cry of multiple expletives—sounding like wild banshees being field-stripped while still alive—that echoed across the basement of the White House press offices when the president announced Sanders' exit. The frustration of covering this administration is embodied in Sanders, but it is unfair to blame her for everything. The fault, of course, is with the president.

Sanders said she wanted to get out for that age-old reason: spending more time with her family. Against all odds, I take her at her word. I don't think she has any desire to be the governor of Arkansas, as the president prodded her into becoming. The school year is over in D.C., her kids are entering school in the fall and now is the perfect time to disengage, get away from the struggle and go home to Arkansas and enroll her children in school there next school year. Trump merely endorsed Sanders for governor to give her an exit boost. If it happens, fine. If it doesn't, Trump won't care. It wasn't to be taken seriously—though afterward, in the small gaggle with a dozen or so reporters, Sanders smiled when someone addressed her as “Governor.”

She also said during that gaggle she wasn't worried about the Mueller report showing she had lied and that the report had nothing to do with her decision to leave. Trump remains her liege. She will bend spoons, shout at the Democrats, speak in tongues, lie to the public and whatever else she feels necessary to defend him. The lie isn't a lie if it defends Trump.

Never forget, she and Trump value loyalty above all. She is Trump's disciple. She is Trump's charge. In her mind she is one of the apostles sent into the hinterlands to preach Trump's truth.

From this she has never wavered. It is hard to believe she ever will.

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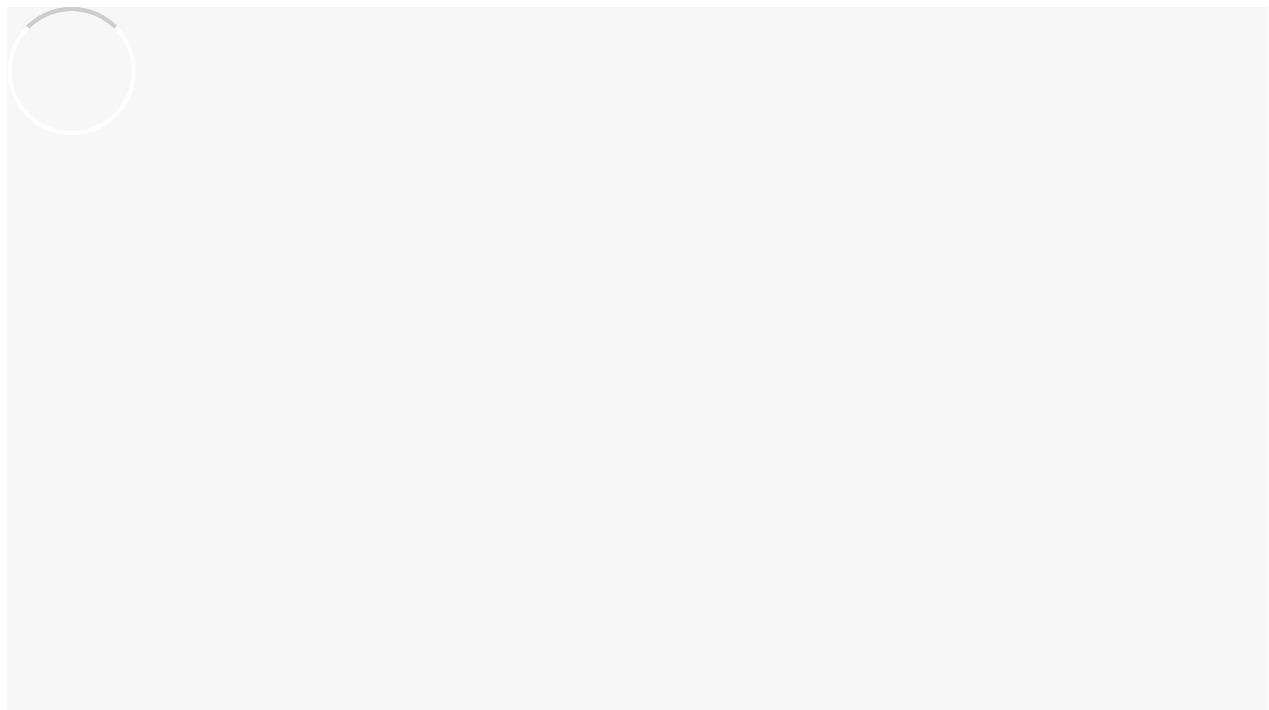
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Exhibit 15

Donald Trump's News Session Starts War With and Within Media



President-elect Donald J. Trump had sharp words for a CNN reporter: “Your organization’s terrible. ... You are fake news.” Jan. 11, 2017 · Sam Hodgson for The New York Times

By **Michael M. Grynbaum**

Jan. 11, 2017

He deemed BuzzFeed News “a failing pile of garbage,” mocked an inquiry about his tax returns — “Gee, I’ve never heard that one before” — and, in an unheard-of moment for a presidential news conference, shouted down questions from a

"Your organization is terrible," said President-elect Donald J. Trump, his voice rising as Jim Acosta of CNN tried to interject. "No, I'm not going to give you a question. I'm not going to give you a question."

"You," the president-elect said, as Mr. Acosta and other stunned journalists looked on, "are fake news."

Any hope that Mr. Trump would temper his attacks on the news media after the campaign seemed to dissipate in the marble atrium of Trump Tower on Wednesday, as the president-elect, holding his first news conference since July, turned a controversy over his ties to Russia into a deft and unrelenting attack on the journalists who reported it.

It was a spectacle that attracted nearly 300 reporters to Midtown Manhattan — the news conference was carried live in Australia, England and Germany — and it came against an extraordinary backdrop: reports that intelligence officials had briefed Mr. Trump on a document alleging collusion between the Russian government and his campaign.

CNN broke the news on Tuesday but declined to publish specific allegations, saying its reporters could not verify them. [BuzzFeed News published](#) the unverified claims in full, a move that prompted an ethical debate in journalistic circles — and offered Mr. Trump an opening.

"The fact that BuzzFeed and CNN made the decision to run with this unsubstantiated claim is a sad and pathetic attempt to get clicks," the incoming White House press secretary, Sean Spicer, said, inaccurately lumping the two news organizations together.

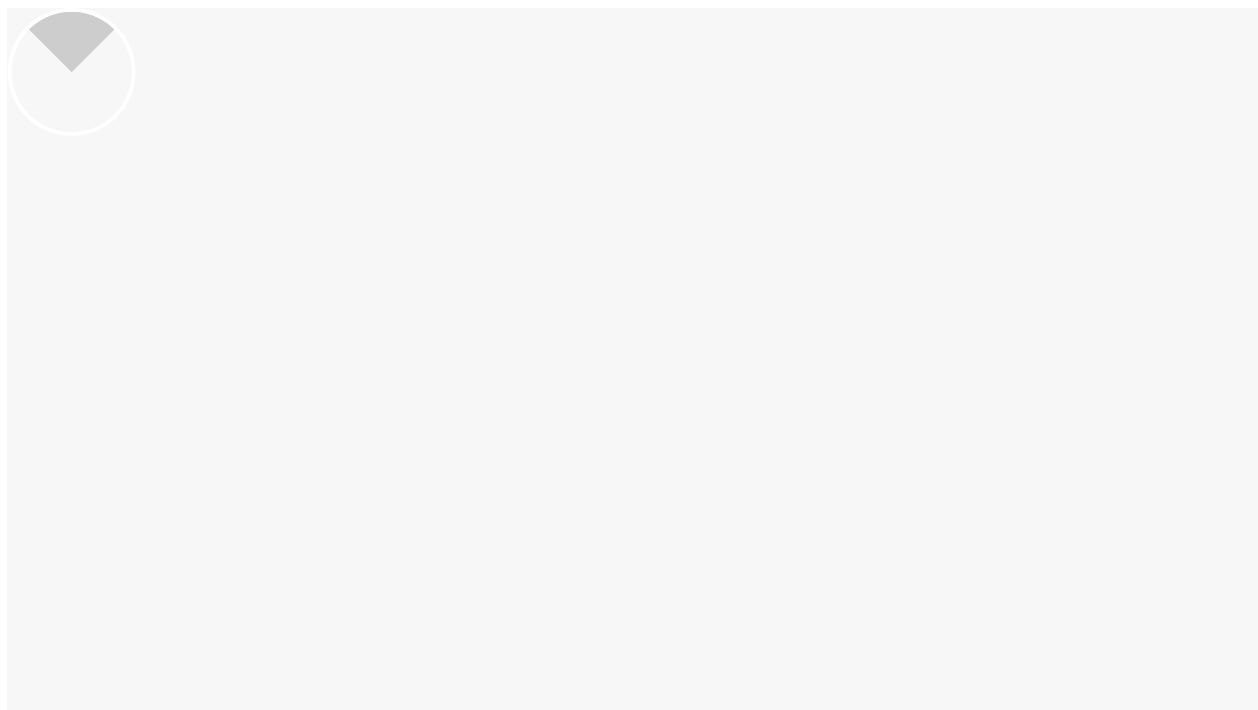
But the result was classic Trump: Not only did he break the norms of presidential engagement with the news media, snubbing organizations because of an unflattering story, but he also had elements of a frustrated political press corps warring with one another.

Immediately after the news conference, CNN defended its reporting and drew a

Case 1:19-cv-02514-KBJ Document 3-15 Filed 08/20/19 Page 4 of 6
sharp distinction between its news story and “BuzzFeed’s decision to publish unsubstantiated memos.” On a broadcast, the CNN anchor Jake Tapper said that BuzzFeed’s move “hurts us all.”

“It’s irresponsible to put uncorroborated information on the internet,” Mr. Tapper said. “I can understand why President-elect Trump would be upset about that; I would be upset about it. too.”

Later, Chuck Todd, the NBC News moderator, repeatedly pressed BuzzFeed’s editor in chief, Ben Smith, on why unverified claims did not amount to “fake news.”



President-elect Donald J. Trump on Wednesday in New York held a news conference for the first time in six months. Jan. 11, 2017 · Damon Winter/The New York Times

Mr. Smith, for his part, said he was “not going to participate in an attempt to divide the media against each other.” (In a memo on Wednesday, BuzzFeed’s chief executive, Jonah H. Peretti, defended the move. “We are going to keep doing what we do best, which is deliver impactful journalism,” he wrote.)

Still, by the time the news conference finished — with Omarosa Manigault, the “Apprentice” star and future member of the White House staff, heckling Mr.

Case 1:19-cv-02514-KBJ Document 3-15 Filed 08/20/19 Page 5 of 6
Acosta, shouting, "Cut it out!" — Mr. Trump had bobbed and weaved his way through nearly an hour of interrogation, offering vague answers to critical questions about his administration.

Yet the conduct of the news media, a familiar foil from Mr. Trump's campaign days, remained at the center of the day's story.

The treatment of Mr. Acosta raised alarms among news media advocates and his fellow journalists, particularly after Mr. Acosta described a threat by Mr. Spicer to eject him from the news conference when he persisted in trying to ask the president-elect a question.

Harsh words between reporters and press secretaries happen. But an anchor for a rival network, Shepard Smith of Fox News, later came to Mr. Acosta's defense, saying that no "journalists should be subjected to belittling and delegitimizing by the president-elect of the United States."

The National Press Club also lamented Mr. Trump's behavior, saying in a statement: "Presidents shouldn't get to pick and choose which reporters' questions they will answer based on what news outlet for which they work."

Mr. Trump, who ultimately took one question from a CNN reporter, also called on journalists from two right-leaning organizations: BreitbartNews and One America News. Matthew Boyle, the Breitbart reporter, asked the president-elect for his ideas on how to reform the news media.

Mostly, however, Mr. Trump took questions from journalists at the major television networks, with John Roberts of Fox News going first. A Greek chorus of sorts — mostly Trump supporters and aides, including Ms. Manigault — watched from the side, applauding Mr. Trump and jeering questions from reporters they deemed unpleasant.

A man who prides himself on finding an opponent's weakness, Mr. Trump at one point zeroed in on an existential question that has lingered in many newsrooms since his surprise victory: How much does the traditional news media still matter in a polarized age?

Case 1:19-cv-02514-KBJ Document 3-15 Filed 08/20/19 Page 6 of 6
When Hallie Jackson, an NBC News correspondent, asked the president-elect if he would finally release his tax returns, to verify his claim that he has no financial dealings in Russia, Mr. Trump scoffed.

“You know, the only one that cares about my tax returns are the reporters, O.K.?” the president-elect said. “They’re the only ones who ask.”

“You don’t think the American public is concerned about it?” Ms. Jackson asked.

“I don’t think so,” Mr. Trump replied, before laying down the political equivalent of a mike-drop: “I won.”

Sydney Ember contributed reporting

A version of this article appears in print on , on Page A19 of the New York edition with the headline: Trump Attacks News Media, Which Then Battle Among Themselves. Order Reprints | Today’s Paper | Subscribe

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Donald Trump Concedes Russia’s Interference in Election

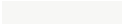
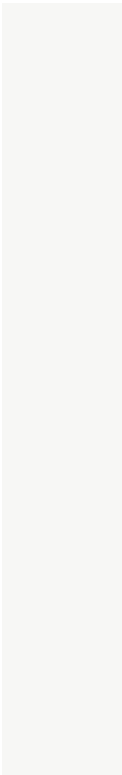


Exhibit 16



Donald J. Trump ✓

@realDonaldTrump

Follow



The FAKE NEWS media (failing @nytimes, @NBCNews, @ABC, @CBS, @CNN) is not my enemy, it is the enemy of the American People!

4:48 PM - 17 Feb 2017

50,113 Retweets 152,998 Likes



76K 50K 153K



Exhibit 17



Donald J. Trump

@realDonaldTrump

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#FraudNewsCNN #FNN



9:21 AM - 2 Jul 2017

Exhibit 18

**Donald J. Trump**

@realDonaldTrump

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Another false story, this time in the Failing
[@nytimes](#), that I watch 4-8 hours of television
a day - Wrong! Also, I seldom, if ever, watch
CNN or MSNBC, both of which I consider
Fake News. I never watch Don Lemon, who I
once called the "dumbest man on television!"
Bad Reporting.

9:17 AM - 11 Dec 2017

30,478 Retweets **129,627** Likes

67K 30K 130K

Exhibit 19



Donald J. Trump ✓

@realDonaldTrump

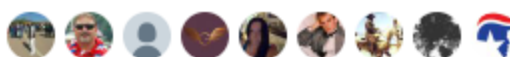
Follow



Even Crazy Jim Acosta of Fake News CNN agrees: "Trump World and WH sources dancing in end zone: Trump wins again...Schumer and Dems caved...gambled and lost." Thank you for your honesty Jim!

6:31 AM - 23 Jan 2018

25,118 Retweets 122,625 Likes



26K



25K



123K



Exhibit 20

Trump Refused To Answer A Question From A CNN Reporter In A Press Conference With Theresa May

The president did, however, take a question from Fox News, which he called "a real network".

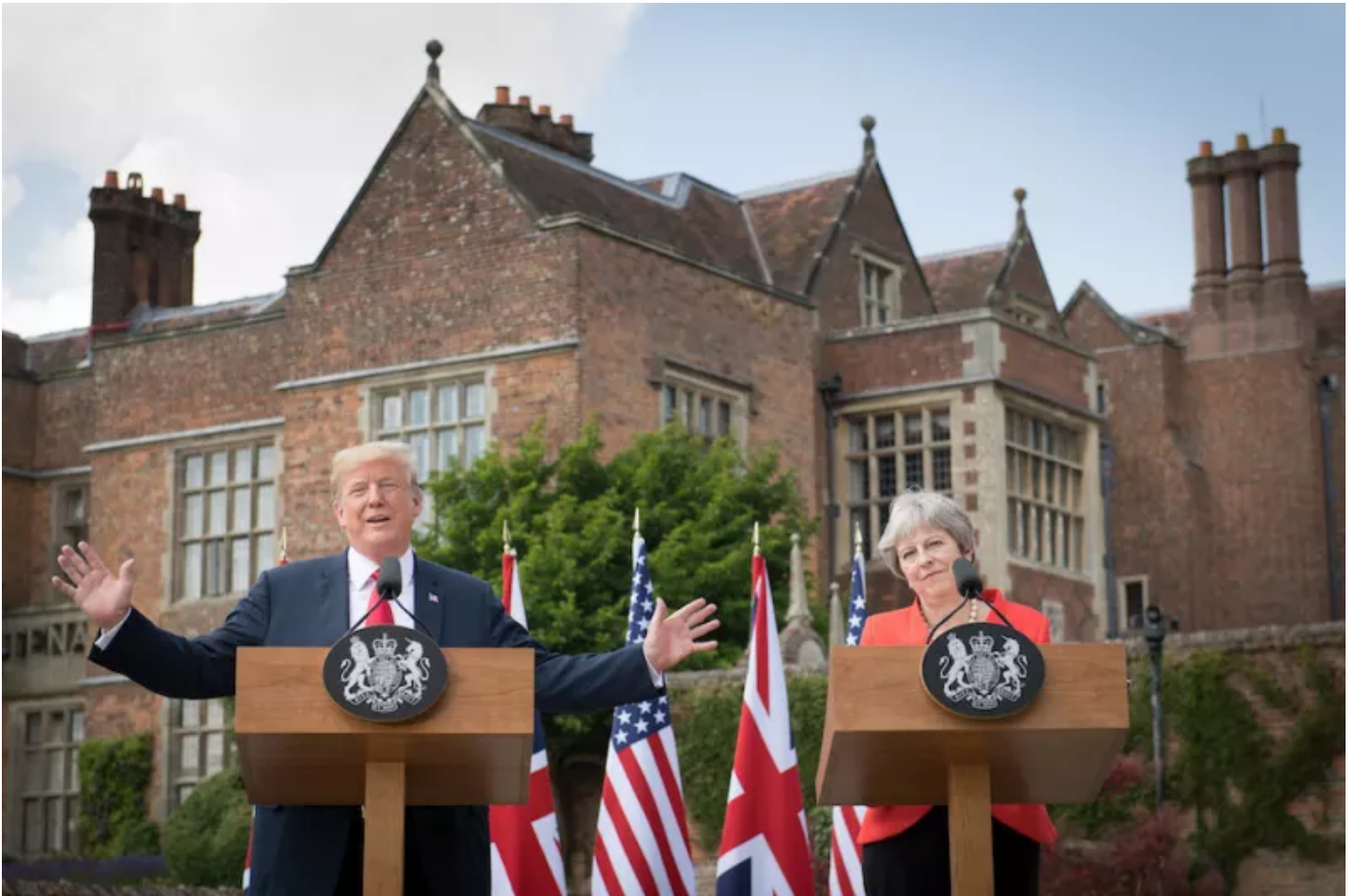
Originally posted on July 13, 2018, at 11:32 a.m.

Updated on July 13, 2018, at 1:04 p.m.



Patrick Smith

BuzzFeed News Reporter



Stefan Rousseau / PA Wire/PA Images



President Trump used the global stage to call an unfavoured cable news network "fake news" on Friday, at a joint press conference with British prime minister Theresa May.

During a question and answer session after both leaders had delivered short speeches, Jim Acosta of CNN attempted to ask the

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journalist dishonest and the network possibly worse than CNN.

He then took a question from Fox News, which he called "a real network".



BuzzFeed News
@BuzzFeedNews

When a CNN reporter tried to ask Trump a question at a news conference, Trump said "CNN is fake news. I don't take questions from CNN. John Roberts of Fox. Let's go to a real network."

274 8:30 AM - Jul 13, 2018

[382 people are talking about this](#)

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John Roberts, the Fox reporter, said in an emailed statement that he supported his White House press corps colleagues and that it was unfair to marginalise them.

"In today's press conference, I paused while my colleague from CNN went back and forth with President Trump over a question," he said. "When it became clear that the president wasn't going to entertain a question from him, I proceeded with my question, as did my fellow colleagues in the press corps.

"I know Kristen Welker of NBC. She is honest as the day is long. For the President to call her dishonest is unfair. I also used to work at CNN. There are some fine journalists who work there and risk their lives to report on stories around the world. To issue a blanket condemnation of the network as 'fake news' is also unfair."

Trump and his supporters have a long history of goading or ignoring CNN, as well as other news outlets. Trump has refused to take Acosta's questions before, and just last month the reporter was [booed and told to "Go home, Jim!"](#) at a Trump rally in South Carolina.

But Trump, despite his assertion that he never takes questions from CNN, did so yesterday. After he'd had made some strong comments about Germany's defence spending and reliance on Russia at the NATO summit in Brussels, the president was asked by

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to authoritarian leaders to restrict press freedom, a view shared by others in the media industry.



Hadas Gold

@Hadas_Gold

The U.S. president doing this abroad is like giving authoritarian leaders around the world, who put reporters in jail, who try to quash a free press, a green light.

Christina Wilkie @christinawilkie

Trump: "I don't take questions from CNN. Fake news. Let's go to John Roberts of Fox. A real network."



38.3K 8:32 AM - Jul 13, 2018

[14.7K people are talking about this](#)



David Rothkopf

@djrothkopf

Trump is not just being un-American in denying CNN access, he is sending a message to the world that the President of the United States does not believe in a free press, giving license to autocrats everywhere to follow his lead.

02:05 PM - 13 Jul 2018

[Reply](#) [Retweet](#) [Favorite](#)

Feuds between media outlets and presidents are not new. President Obama was openly critical of Fox News and its nakedly negative coverage of his administration – but attempts to ban its reporters from government press briefings were resisted and widely criticised by other media outlets.

In 2009, officials had attempted to omit Fox News from a Treasury briefing, but other networks [refused to take part](#) until its journalists were allowed in.

CNN declined to comment.

Patrick Smith is a senior reporter for BuzzFeed News and is based in London.

Contact Patrick Smith at patrick.smith@buzzfeed.com

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[Share](#)

Exhibit 21



The 43 most staggering lines from Donald Trump's Indiana speech

Analysis by [Chris Cillizza](#), CNN Editor-at-large

Updated 12:59 PM ET, Fri August 31, 2018

(CNN) — As officials in Washington prepared to honor the late Sen. John McCain, President Donald Trump headed to Evansville, Indiana, to headline a campaign rally for GOP Senate nominee Mike Braun. If you thought Trump might honor McCain's passing or adjust his fiery campaign rhetoric in any way, you thought wrong! *(Trump never mentioned McCain by name in the speech.)*

I went through the transcript of Trump's speech and pulled out the most, um, memorable lines. They're below.



CNN's Chris Cillizza cuts through the political spin and tells you what you need to know. By subscribing, you agree to our [privacy policy](#).

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1. "You love our country. You're proud of our history. And you always respect our great American flag."

While this is a standard Trump line, it takes on a bit of a different meaning since the flag over the White House went back to full-staff on Monday morning -- even as the US Capitol Building had the flag still at half-staff to honor McCain. [Later in the day](#), Trump issued an order for the flags at the White House to hang at half-staff until McCain's burial at the Naval Academy on Sunday.

2. "And now tomorrow you're going to read headlines, 'Trump had protesters all over the place.' One person. One person."

You wouldn't have read headlines like that except for the fact that a [Trump volunteer blocked a photographer](#)

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A staff member for President Donald Trump blocks a camera as a photojournalist attempts to take a photo of a protester during a campaign rally at the Ford Center, Thursday, Aug. 30, 2018, in Evansville, Ind. (AP Photo/Evan Vucci)

him or his side. When that happens, he calls those "suppression polls" because they might have the effect of discouraging people to vote for a lost cause. That, of course, is not the aim of polls. The aim of polls is to provide a snapshot of where a race stands.

6. "But the word is they're firing the head of NBC. What a great thing to do. How smart. That's what the word. Who knows? With these people, you never know."

A classic in the Trump rhetorical catalog. *I hear someone might get fired. But that could change. Who knows?* By doing this, Trump injects the idea into the minds of his supporters and forces some level of media coverage -- even if it's very skeptical. He does all of that [without a single shred of evidence that NBC News President Andrew Lack is getting fired](#).

7. "But when I start screaming 'fake news,' you see those red lights go off for a little while. You know, excuse me, we have technical difficulties, OK, then they go back. "

So. The President of the United States is alleging, with no proof, that TV cameras are faking technical difficulties when he starts talking about "fake news." Which is weird, because I watched him say this line on TV last night.

LIKE WHAT YOU'RE READING?

Check out the latest analysis from [The Point with Chris Cillizza](#):

- The [absolutely remarkable life](#) of John McCain
- Indictment isn't Trump's biggest threat -- [impeachment is](#)
- Donald Trump [just gave a GIANT hint](#) about when he'll fire Jeff Sessions
- The [definitive ranking of 2020 Democrats](#)

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3. "But are they going to talk about the thousands and thousands of people inside of this arena and outside of the arena, where we put screens? No."

The Indianapolis Star reported that [all of the arena's 11,000 seats were full](#) -- and that people "spilled out onto the floor."

4. "These are just dishonest, terrible people. I'm telling you that. Terrible people."

Trump's attack on the media came on the same day that a [California man was charged for making violent threats against reporters for the Boston Globe](#). He insisted that the media was "the enemy of the people." [Sound familiar?](#)

5. "They do suppression polls. You know what a fake poll is. It's called a suppression. They make you think you can't win, so you go to see a movie."

This is not a thing. Or at least not a thing any credible, mainstream media outlet would get anywhere near. What Trump means is that sometimes polls don't come out well for

8. "It's tough to have a network where you're calling them 'fake news' and they're supposed to be proud."

[narrator voice] It's not tough at all, actually.

9. "That just shows when you get good ratings, you can say anything."

He said the quiet part out loud! If you needed Trump's view on the media -- and on life more generally -- condensed into a single sentence, this would be the sentence I would write. If you listen closely enough to Trump, he always tells you exactly what he thinks, and who he is.

10. "We're so far ahead of schedule."

11. "I gave Mike, a little while ago, something that I saw -- but he's seen it -- the Indianapolis Star did a story,

and I guess it's a poll of some kind. Joe Donnelly rated least effective Democrat in Senate in a new study."

Two things: 1) [Here's the study Trump is referencing](#) and 2) It's amazing how Trump sees zero hypocrisy in calling the media "dishonest, terrible people" one moment and then citing a mainstream media story to make a point that is good for him.

12. "Today's Democrat Party is held hostage by left-wing haters, angry mobs, 'deep state' radicals, establishment cronies, and their fake news allies."

This is a pretty remarkable thing for a president -- even Trump -- to say. The opposition party is haters, angry mobs, people who make up the news, swamp-dwellers and embedded bureaucrats working to bring down his presidency. What's even scarier is that I think he may genuinely believe it.

13. " You can have the biggest story about Hillary Clinton -- I mean, look at what she's getting away with. But let's see if she gets away with it."

Trump never specifies what Clinton is "getting away with." Doesn't matter. The crowd erupts in an extended "Lock Her Up!" chant. What are we locking her up for? No one seems to know!

14. " All I can say is, our Justice Department and our FBI -- at the top of each, because inside, they have incredible people -- but our Justice Department and our FBI have to start doing their job right and doing it right and doing it now."

This is more "deep state" conspiracy stuff. Remember that the head of the Justice Department -- Jeff Sessions -- was a top Trump supporter during the campaign and was hand-picked by the President for this job.

15. "What's happening is a disgrace."

A Republican president offers his thoughts on his own Justice Department.

16. "I wanted to stay out. But at some point, if it doesn't straighten out properly -- I want them to do their job -- I will get involved, and I'll get in there, if I have to."



Related Article: Joe Biden's McCain eulogy just explained exactly what's wrong with American politics

Trump, translated: The Justice Department better start pursuing my personal whims -- or else.

17. "Republicans stand for stopping illegal immigration, fixing bad, horrible, obsolete trade deals, unleashing American energy, cutting taxes, supporting our militaries and our great vets, our great, great vets."

Great vets like, say, John McCain?

18. "But of the nine, eight of them were crying. And I looked at the ninth, crying out of happiness, because they're back."

Trump relayed to the crowd that he ran into nine coal miners backstage in Evansville -- and they were all weeping out of happiness for what he has done for the coal-mining industry. The chances this story is actually true? 50-50.

19. "I actually asked them, I said, did they do polling when Honest Abe Lincoln was around? You know what? Nobody's been able to give me that answer, but I'm assuming they did. OK? So we can say we're

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Donald Trump just said he is more popular right now with Republicans than Abe Lincoln was in his time. What a sense of history!

20. "These -- this is a group of gang members -- I can't say 'animals' anymore, because Nancy Pelosi got very angry when I called them animals. I called them animals. She went crazy. I can't do it."

[Here's what Pelosi actually said:](#) "When the President of the United States says about undocumented immigrants, 'these are not people, these are animals,' you have to wonder, does he not believe in the spark of divinity? In the dignity and worth of every person? 'These are not people, these are animals,' from the President of the United States."

21. "We're doing a great job. And we have really no laws to work with. We have really no laws to work with. The laws are horrible. Laws are the worst and dumbest in the history of the world."

A real quote from the President of the United States.

22. "I pick up. I said hello. He goes, 'Trump, this is Bobby Knight, and you got to run for president. Our country needs you.' And I said that's Bobby Knight. That's Bobby Knight. Right? That's Bobby Knight."

Knight, the famous/infamous longtime basketball coach at Indiana University, was a prominent Trump supporter.

23. "But I had two big stacks -- you'll see pictures of me in the office, you'll see these massive stacks."

Stacks on stacks.

24. "We were on center stage of every single debate, right? Every single debate. Center stage means we were never in second place."

The re-telling of his positioning on the stage in 2016 primary debates is so, so Trump. Being center stage means he was in first, the big winner, the one everyone wanted to look at and talk about. This is his life goal.

25. "We love winners. We love winners. Winners are winners."

[nods head knowingly]

26. "Did you say the fake news tried to fake out Tiger? They didn't do too well. Tiger's sharp."



Related Article: Donald Trump just keeps claiming things he said on tape aren't real

Woods was asked at a tournament this week about his relationship with Trump. [Here's what he said:](#) "We've played golf together. We've had dinner together. I've known him pre-presidency and obviously during his presidency." Asked whether his friendship with Trump amounted to tacit support for the President's policies, Woods responded: "He's the President of the United States. You have to respect the office," he said. "No matter who is in the office, you may like, dislike personality or the politics, but we all must respect the office."

27. "No, we love winners. We love winners. "

So, let me get this straight. Winning is good? And we like winners?

28. "And we're the talk of the world. I'll tell you, every foreign leader who comes to see me, almost, they walk

in and they start off, Mr. President, congratulations on the incredible success you're having with your economy. Congratulations. Everything. Almost everyone."

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29. "See, you have to understand, I have a better education than they do from a much better school, but -- the elite. They're the elite. They're the elite. I went to better schools, I went to better everything. And by the way, by the way, are you ready for this? And I'm President, and they're not."

The key to understanding so much of what Trump says and does is this: He believes himself to have always been mocked by the so-called "elites." He has always felt like the guy on the outside looking in, the person the people he wanted to be ignored and and laughed at. Trump's life has been motivated by a singular desire to prove all of those people wrong. "I'm president and you're not," is the sort of thing you might expect to hear from someone in fifth grade. But that grade-school mentality is how Trump looks at the world.

30. "If Crooked Hillary came here, if she had 300 to 500 people -- first of all, she wouldn't be in this building. She'd be in a hotel conference room. It would be a conference room, right?"

The 2016 election ended 661 days ago.

31. "And I'm not saying -- I'm just saying. I'm not saying it's -- I'm just saying, something incredible is happening with our country to have this."

So, is he saying? Or not saying? I'm confused.

32. "And for the first time ever, really -- and we have a lot of great programs to help -- for the first time ever, employers are hiring prisoners."

This is not, um, the first time that employers are hiring ex-prisoners.

33. "And I have a friend who hired prisoners. I said, 'Whoa, that's great.' And he said, 'You wouldn't believe how great they are. They're better than my other people.'"

"Whoa, that's great." -- President Donald Trump

34. "It's such a beautiful name, clean power. Clean power, right?"

Uh, yes?

35. "When there's thousands of birds laying at the base of the windmill, what do we do? Isn't that amazing?"

Amazing is, I guess, a word for it?

36. "If your house is staring at a windmill, not good. When you hear that noise going 'round and 'round and 'round, and you're living with it, and then you go crazy after a couple of years, not good."

"How Windmills Make You Crazy," By Donald Trump

37. "Because we've put mechanisms in work -- lots of different -- I won't bore you with the complications -- it's actually -- we had middlemen that were so rich they were making a fortune on drugs, prescription drugs."

"You know, a lotta ins, lotta outs, lotta what-have-you's. And, uh, lotta strands to keep in my head, man. Lotta strands in old Duder's head." -- Jeffrey "The Dude" Lebowski.

38. "Our veterans are the greatest. ... These are, really, our greatest people, as far as I'm concerned."

Like, say, John McCain?

39. "I guess I'm good at getting things passed, but it was great."

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[Mars Awaits!](#)

41. "We are standing up for the heroes who protect America."

Like, say, John McCain?

42 . "We're going to win so much that you're going to be begging me, 'Please, please, Mr. President, the people of Indiana cannot continue to win like this. We're not used to this. This is terrible!'"

"Terrible Winning" would be a good band name.

43. "I don't give a damn what they want. We're going to keep on winning."

"Too much winning can be wonderful." -- Mae West/Donald Trump

Exhibit 22



— White House correspondent Kaitlan Collins asks a question during a press conference by U.S. President Donald Trump and Canada's Prime Minister Justin Trudeau in the East Room of the White House on February 13, 2017 in Washington, DC.

Mandel Ngan / AFP - Getty Images file

July 26, 2018, 12:13 AM UTC / Updated July 26, 2018, 12:17 AM UTC

By Phil McCausland

The White House banned a CNN reporter from attending a press event with President Donald Trump on Wednesday after she asked him questions about his former lawyer Michael Cohen and Russian President Vladimir Putin.

The cable networks's White House reporter Kaitlan Collins had served as the "pool reporter" during an Oval Office photo op with President Trump and European Commission President Jean-Claude Juncker on Wednesday, meaning she was asking questions on behalf of several news organizations. As the president sat for pictures, Collins tossed out a few questions in hopes that Trump might answer.

Major networks trade the duty of serving as the television "pool reporter," and it is typical that this person attempt to ask the president questions. Trump is known to sometimes answer, and it is oftentimes reporters' only opportunity to ask him questions.

The White House apparently did not like her line of questioning.

"After posing questions to President Trump earlier in the day as the network pool reporter, Collins was told by White House deputy chief of staff for communications Bill Shine and press secretary Sarah Sanders that her questions were 'inappropriate,'" CNN said in a statement.

Collins' four questions centered on Trump's relationship with his former longtime lawyer Cohen and an invitation he extended to President Putin.

"Did Michael Cohen betray you, Mr. President?" she asked twice, between the whir and clicks of cameras taking photos. "Mr. President are you worried about what Michael Cohen is about to say to the prosecutors? Are you worried about what is on the other tapes, Mr. President? Why is Vladimir Putin not accepting your invitation, Mr. President?"

All four questions related to news of the day. [Cohen's lawyer released the audio of a recording](#) between Cohen and the president late on Tuesday in which Trump mentions "cash" in relation to paying off a former Playboy model who claims she had a year-long affair with him.

The final question refers to an invitation that Trump extended to Russian President Putin to come to the White House. The White House [announced Wednesday that it would delay the meeting](#) until special counsel Robert Mueller completed his investigation of Russian election interference, which also looks into whether the Trump campaign attempted to collude with the Russian government.

After Collins asked the questions, however, she was told by Shine and Sanders that she would not be allowed to attend an open press event in the White House Rose Garden.

"I told them that is often our only chance to ask the president questions. Those questions were questions any reporter would have asked, and I was there to represent all of the networks and therefore ask about the questions of the day," she [said on CNN's The Situation Room with Wolf Blitzer](#).

Trump and Juncker gave brief [statements at the Rose Garden event about their meeting on Wednesday](#).

"Just because the White House is uncomfortable with a question regarding the news of day doesn't mean the question isn't relevant and shouldn't be asked," CNN said in its statement. "This decision to bar a member of the press is retaliatory in nature and not indicative of an open and free press. We demand better."

The White House Correspondents' Association also condemned the Trump administration's "misguided and inappropriate decision."

"This type of retaliation is wholly inappropriate, wrong-headed, and weak," WHCA President Olivier Knox said. "It cannot stand. Reporters asking questions of powerful government officials, up to and including the President, helps hold those people accountable."

FOX News, the president's preferred news network, also extended their support to CNN and Collins' right to be at the press event.

"We stand in strong solidarity with CNN for the right to full access for our journalists as part of a free and unfettered press," wrote Jay Wallace, the president of FOX News, in a statement.

Sanders said in a statement from the White House that Collins had "shouted questions and refused to leave despite repeatedly being asked to do so."

"Subsequently, our staff informed her she was not welcome to participate in the next event, but made clear that any other journalist from her network could attend," Sanders said. "She said it didn't matter to her because she hadn't planned to be there anyway. To be clear, we support a free press and ask that everyone be respectful of the presidency and guests at the White House."

Other White House reporters — some who were in the room when Collins asked the questions — and colleagues extended their support to the CNN reporter.

As today's radio pooler, I was in the Oval Office with @kaitlancollins, heard her questions, thought they were good and timely ones, and find an official government sanction in response to them an absolute, stunning outrage.

— Steven Portnoy (@stevenportnoy) July 25, 2018

Outrageous of the White House to bar @CNN reporter @kaitlancollins from an open press event because it did not like her questions. A strong leader does not fear questions. A strong democracy does not shield its leader from those who question authority. <https://t.co/zmwH0vUZ3A>

— Peter Baker (@peterbakernyt) July 25, 2018

Absolutely disgraceful behavior from @presssec and Shine. @kaitlancollins is a tough professional and had every right to ask about Cohen, about whom POTUS has repeatedly tweeted. WH press corps and media writ large needs to unite against this. <https://t.co/ryg3Uj8qvG>

— Jake Tapper (@jaketapper) July 25, 2018

Just got word the WH barred @kaitlancollins from the WH for asking questions today they did not like. This is oppression, this anti-American. This cannot stand. Kaitlan is a great reporter. The WH shows its true colors. NO MORE!

— Brian J. Karem (@BrianKarem) July 25, 2018

Remember, @kaitlancollins was acting on behalf of all network television reporters today in the Oval. I stand firmly with her, and would have done exactly the same thing in her shoes.

— Hallie Jackson (@HallieJackson) July 25, 2018



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Exhibit 24

Sections

The Washington Post logo
Democracy Dies in Darkness

Politics • Analysis

Reporters tried to correct Trump’s incorrect data on immigration. It was ... not effective.

But not entirely through any fault of their own.



By Philip Bump
February 15

One of the comments that political observers offer to reporters with some regularity is

that more should be done to challenge President Trump's repeated lies and inaccuracies about matters of public policy. Given the regularity with which Trump offers disproved bits of data, it would seem to be a fairly trivial task to interject with corrections.

In practice, of course, it's not that simple: The president's availability is limited, and while he tends to repeat debunked talking points, the broad selection of inaccuracies from which he might choose on any given day means that reporters might not always be prepared for any particular comment.

On Friday, though, everything fell into place: The president, in trying to defend his decision to declare a national emergency to fund a wall on the border with Mexico, trotted out the same frequently disproved data he has been using since the fight over the wall heated up in December. And reporters, given the opportunity to ask questions of the president, directly challenged his presentation of facts.

In short order, we saw why trying to fact-check Trump, even in real time, is often an unrewarding enterprise. The combination of the power imbalance between the president and reporters, his willingness to ignore the decorum that has usually guided such interactions, and his aggressive lack of interest in engaging in legitimate debate all made the day's incursions broadly unsuccessful.

CNN's Jim Acosta

The first reporter to challenge Trump's data was CNN's Jim Acosta. Acosta's tense relationship with the White House is by now well established, including an incident in which Acosta's access badge to the facility was briefly revoked.

Here was their exchange, with our thoughts interspersed.

ACOSTA: Thank you, Mr. President. I — I wonder if you could comment on this disconnect that we seem to have in this country where you are presenting information about what's happening at the border, calling it an invasion, talking about women with duct tape over their mouths and so on.

And yet there's a lot of reporting out there, there's a lot of crime data out there, there's a lot of Department of Homeland Security data out there that shows border crossings at a near-record low ...

TRUMP: That's because of us. But it's still — excuse me ...

A problem with asking questions of anyone, Trump included, comes when you include multiple issues in one question. This, too, can stem from having only limited time to press the president on any given subject (and his press secretary's abandonment of daily press briefings).

Here, Trump seizes upon one part of Acosta's question — a drop in border crossings — to interrupt.

Trump's claim that border crossings are near a record low is not because of Trump. Data on monthly apprehensions at the border, a good proxy for the number of crossings, [shows](#) that there was a low early in Trump's administration, but the figure has since climbed. Apprehensions are now at a level that has been fairly consistent since 2011 or so.

ACOSTA: That shows undocumented immigrants committing crimes at lower levels ...

TRUMP: It's still massive numbers of crossings.

Acosta presses on as Trump pivots from taking credit for a drop in border crossings to instead touting how many crossings there are — the central argument behind his push for a wall.

Consider that contrast alone. Trump claims we need a wall to address a crisis at the border, but also accepts and seeks credit for the number of crossings being near a record low.

ACOSTA: Shows undocumented criminals — or undocumented immigrants committing crimes at lower levels than native-born Americans. What — what do you say to ...

TRUMP: You don't — you don't really believe that stat, do you? Do you really believe that stat? Take a look at our federal prisons.

ACOSTA: What do you — well, let me ask you this. I believe — I believe in facts and statistics (inaudible).

TRUMP: Okay. Anymore? Quick, let's go.

Acosta asks about a claim that Trump has made since he declared his candidacy: that immigrants from Mexico bring crime.

The idea that immigrants, including immigrants in the country illegally, commit a disproportionate amount of crime has been repeatedly shown to be false. It was [false in July 2015](#) when Trump first made the claim, and, since Trump has focused on the issue, it has been again [disproved](#) repeatedly.

Trump doesn't offer any factual response to Acosta, besides to point at the federal prison population. (Since immigration crimes are federal crimes, the federal prison population is [disproportionately](#) made up of non-citizens.) Trump simply asks Acosta what he believes, as though his own gut feeling is more important than what statistical analysis suggests.

That discrepancy comes up again in short order.

ACOSTA: Let me just ask you this: What do you say to your critics who say that you are creating a national emergency, that you're concocting a national emergency here in order to get your wall because you couldn't get it through other ways?

TRUMP: I ask the Angel Moms, what do you think? Do you think I'm creating something? Ask these incredible women who lost their daughters and their sons, okay? Because your question is a very political question, because you have an agenda, you're CNN, you're fake news, you have an agenda.

The numbers that you gave are wrong. Take a look at our federal prison population, see how many of them percentage-wise are illegal aliens, just see. Go ahead and see. It's a fake question.

Acosta tries another tack: Isn't this not an emergency but instead simply an effort to get the wall that Congress denied?

Trump demands that Acosta consider the "Angel Moms," mothers of people who've lost children to immigrants in the country illegally either through criminal acts or accidents. This is another appeal to emotion, centered on undeniable tragedies — but tragedies that by themselves don't prove Trump's claims about the risk posed by immigrants in the country illegally. (Native-born Americans commit crimes at higher rates than immigrants.)

The president then switches to the point he probably wanted to make from the time he called on Acosta: CNN's coverage can't be trusted because it has an agenda.

It's particularly ironic that Trump would make this claim after having just waved away pointed questions about issues of fact in favor of politically motivated emotion. But it's not particularly surprising that he did so.

Playboy's Brian Karem

When Acosta was done, Trump turned to Playboy's White House correspondent, Brian Karem. Karem continued Acosta's theme.

KAREM: Thank you, Mr. President. Just to follow up on that, you — unifying crime-reporting statistics, numbers from your own Border Patrol, numbers from this government, show that the amount of illegal immigrants are down, there is not violence on the border and that most ...

TRUMP: There's not violence on the border?

KAREM: There's not as much violence as — wait a minute — wait a minute — let me finish the question ...

TRUMP: Oh really? You had 26 people killed?

KAREM: Please, let me finish the question, please.

TRUMP: Two weeks ago, 26 people were killed in a gunfight on the border.

KAREM: I understand what the — I understand what you're saying.

TRUMP: A mile away from where I went.

KAREM: I — I was there, I understand. That's not the question. The question is ...

TRUMP: Do we forget about that?

Karem begins by noting that the number of immigrants in the country has declined and addressing the question of violence on the border. But he misspeaks, and Trump immediately pounces.

Nearly half of Karem's time is taken up fending off Trump's accusation that Karem was claiming there was no violence on the border. It's an accusation that's clearly not made in good faith, as Karem quickly makes clear, but Trump keeps pressing on it because it allows him to filibuster — and avoid the question.

KAREM: No, I'm not forgetting about it, I'm asking you to clarify where you get your numbers, because most of the [Drug Enforcement Administration] crime-reporting statistics that we see show that drugs are coming across at the ports of entry, that illegal immigration is down and that the violence is down. So what do you base your facts on?

TRUMP: Okay. Let me — come on, let's go.

KAREM: And secondly ...

TRUMP: No, no, you get one, you get one. Wait, sit down, sit down.

KAREM: Could you — could you please answer it.

TRUMP: Sit down! You get one question.

KAREM: Please?

TRUMP: I get my numbers from a lot of sources, like Homeland Security primarily, and the numbers that I have from Homeland Security are a disaster.

And you know what else is a disaster? The numbers that come out of Homeland Security, Kirstjen [Nielsen, the homeland security secretary], for the cost that we spend and the money that we lose because of illegal immigration, billions and billions of dollars a month. Billions and billions of dollars, and it's unnecessary.

Karem finally gets back on track: Where, if Trump is claiming that there is a risk of crime at the border, does that analysis come from?

Primarily the Department of Homeland Security, Trump says — leaving open the door for other sources of information, including, perhaps, the conservative media that Trump eagerly consumes.

Mind you, Trump doesn't offer any data on crime, instead asserting that Homeland

Security estimates that illegal immigration costs billions of dollars a month.

Trump has made similar claims before, frequently [inflating](#) the annual cost of immigration on a whim. The Post's fact-checkers have looked at Trump's numbers in the past and determined that his claims [derive indirectly](#) from numbers tallied by a group that opposes current immigration policies. Even that analysis has been [challenged](#) as inaccurate.

In other words, this appears to be an example of one of the other sources of information, not DHS.

KAREM: So your own government's stats are wrong, are you saying?

TRUMP: No, no, I use many stats. I use many stats.

KAREM: Could you share those stats with us?

TRUMP: Let me tell you, you have stats that are far worse than the ones that I use, but I use many stats, but I also use Homeland Security. All right, next question.

Karem returns to his point about the Drug Enforcement Administration's determination that most drugs come into the United States at existing border checkpoints, a bit of information that's [reinforced](#) by testimony from Homeland Security.

Trump's reply? He uses lots of stats, ones that are better than what Karem has, but he won't share them.

And with that, Karem's turn with the mic was over. The next question was about China.

The takeaway here is simple: Trump is uninterested in presenting accurate information about immigration that conflicts with his policy goals. He prefers instead to go with his gut, even when those feelings are demonstrably false. And if you challenge him on that, he'll bully and mislead and then cut you off.

Reporters should and do press Trump on his assertions of fact. But it will usually go like this.

—

1 **'Everything that we hold dear': From race to plastic straws, Trump dials up culture wars in divisive play for 2020 votes**

2 Analysis
How a recession could doom Trump's 2020 reelection

3 Analysis
Anger at being labeled racist is the new 'cultural anxiety' for Trump supporters

4 **Fourth board member resigns from NRA in a sign of further upheaval**

5 **Epstein's accusers call her his protector and procurer. Is Ghislaine Maxwell now prosecutors' target?**

Exhibit 25



ANALYSIS DONALD TRUMP FUNNY THE MEDIA TRUMP'S MENTAL HEALTH

Trump Goes Ballistic, Freaks Out On Reporter Who Called Him Out On His Lies "Quiet, Quiet, Quiet!"

This is a man losing his grip on reality.



by Andrew Simpson 2 months ago



580

Whether it was just the humming, buzzing, throbbing headache he must have had over his abysmal poll numbers or just the general sense that everything is crumbling down around him, Donald Trump was in a foul, foul mood yesterday.

That may not make for exciting news — he's usually not in a great mood, given he knows that the world mostly hates him — but watching him have tiny public meltdowns when people corner him with something

Senior White House correspondent for Playboy and CNN political analyst Brian J. Karem was on hand as Trump was getting ready to depart for Iowa yesterday — the now-famed lawn Q&A featuring what many believed to be a blank piece of paper being used as a prop, but later discovered to be a typed-out version of exactly what Trump's been saying about the Mexico "deal" for a week now — and he got a firsthand look at Trump's mental state.


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Being a reporter for a non-DC publication has its merits: While folks from *NYT* and *WaPo* are forced to continue pretending like the President says things that are true occasionally, Karem has no such restrictions, and he was in rare form as he called out his questions to Trump about lying to the American public.




That's the kind of reporting we would **like** to see more of — perhaps a reporter showing up with a video on their cell phone of something the President had subsequently denied saying recently and then forcing him to watch as other cameras show him being confronted with his lies in real time.

But Trump does NOT like that one bit.

Watch the President's face contort into a menacing scowl as Karem shouts his questions along with the rest of the press corps:

 In reply to [@BrianKarem](#) 's question about accusations he is lying to the American public, [@realDonaldTrump](#) replied: Quiet! Quiet! Quiet!" Brian: Watch the look on tRump's face. pic.twitter.com/3n1yRN0Sf9

— Jeffrey Guterman (@JeffreyGuterman) June 11, 2019

 Three times POTUS tells me to be quiet as I ask him about the accusations he is lying to the American public.  [@realDonaldTrump](#)  pic.twitter.com/ftkHJ2tN0B

— Brian J. Karem (@BrianKarem) June 11, 2019

"Quiet! Quiet! Quiet!" the President says to Karem, holding up the "shush" finger.

We could watch this all day.

Featured image via Twitter

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ANGRY TRUMP

WEDNESDAY WISDOM

WHITE HOUSE

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580

Posted by

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ANALYSIS DONALD TRUMP POLITICS RACISM
MONDAY MOTIVATION RACISM TRUMP RACIST

Leaked Documents From The FBI Show Their Priorities Under Trump's "Leadership"

There is no question how racist this President is.



by Andrew Simpson 2 hours ago

ANALYSIS DONALD TRUMP HEALTH CARE TRUMP'S MENTAL HEALTH
VIDEO DONALD TRUMP HEART ATTACK HEART DISEASE



CNN Medical Correspondent Says Trump Has Heart Disease

The implications are staggering.



by Andrew Simpson 2 days ago

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by Andrea Thompson 6 hours ago

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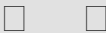
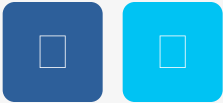
EDITOR'S PICK

1



Michael Cohen Exposes Trump’s Signature On Documents Showing Russian Activity In 2016 Campaign

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Exhibit 26

Written by Brian Karem
July 25, 2019

Shortly before Donald Trump walked out to the South Lawn of the White House, a senior White House official made sure reporters understood what was about to happen. “He’s in a good mood. He’s coming right at you. He wants to talk,” I was told.

Robert Mueller had just spent seven hours on the Hill testifying before two congressional committees. The White House was apparently ecstatic with the results. The GOP had tried to attack Mueller’s credibility and failed. They tried to question his facts and failed. But Mueller, according to the official White House betting line, looked befuddled and doddering, hence a comment from a junior administration official that the president “won another one! He’s untouchable.”

According to the administration, the knockout punch against Trump never came. “He didn’t know what was in his own report,” one Trump aide told me. Some pundits from both sides of the political divide evaluated Mueller’s testimony in binary fashion. “Those who wanted to begin impeachment proceedings needed bombshells from the former special counsel,” Politico’s Playbook newsletter said. “Mueller gave them nothing besides affirmation about what was in his report, and a series of sidesteps when he did not want to answer questions.”

Statements like that left a few reporters in the White House press corps breathless. “Did they even read the report?” one reporter said out loud in the Brady briefing room. Later that day, pundits wrote that if the Democrats were looking for a “seminal moment,” as The Washington Post’s Aaron Blake wrote, then they left disappointed because “their star witness was no star.”

Some saw a different loser. “After Wednesday’s congressional hearing, it looks like President

Trump has won a victory over the bedrock American principles of congressional oversight and equality before the law,” John Cassidy wrote in The New Yorker. “Trump’s blitzkrieg tactics of demonizing anyone who challenges him, terrorizing potential dissidents on his own side, and relentlessly spouting propaganda over social media may have worked,” Cassidy added. The president and everyone else seemed to want a cinematic knock out from Mueller that didn’t occur. In a reality show presidency, it seemed to be the only viable option to some viewing the chaos from the comfort of their living room sofa. Act III needs a hero to rise.

Meanwhile, CNN’s Brian Stelter opined about a dilemma the press faces in this mess: “Old-fashioned tenets of the news business fade away in this fog of disinformation. For example: ‘What the president says is news.’ I still think that’s true, but when he’s telling you not to believe your own eyes and ears, is it really news?”

Stelter tried to grapple with one of the fundamental problems facing the press today: how to deal with appearance versus reality. Unlike others, he did not get lost in a binary decision of “who won” between Mueller and Trump.

The reality is harder to decipher and doesn’t conveniently breakdown into a 10-second sound bite. Reality can be lost in the heat of the moment concerning the news of the day—which is exactly what Trump wants. The president’s gaggle on the South Lawn this week highlights the problem in a nutshell. The president claimed he was vindicated and said “We had a very good day today” and “There was no defense for this ridiculous hoax, this witch hunt that’s been going on for a long time...”

From there, it became an epic presidential slugfest against the press. As he walked up to the bank of microphones, I asked if he was worried that Mueller said he could be indicted for obstruction once he left office. He ignored me.

A short time later, Hallie Jackson asked the same question. Trump went off on the NBC reporter, calling her fake news.

“And let me just tell you, the fact that you even asked that question, you’re fake news.

Because you know what? He totally corrected himself in the afternoon. And you know that just as well as anybody.”

He went on to Kaitlan Collins, from CNN, who asked about the president being “not truthful” in his written answers to Mueller’s questions. Trump danced around that and fired off another “fake news” assault at another reporter.

“Again you’re fake news, and you’re right at the top of the list . . .” he said. To yet another reporter he said, “That’s why people don’t deal with you because you’re not an honest reporter.”

After telling John Roberts from Fox News that “this was a devastating day for the Democrats,” Trump told another reporter trying to ask about potential indictments after leaving office that it was a “very dumb and very unfair question.” He told a group of reporters, including myself, Collins, Paula Reid from CBS, and Jackson from NBC that we were all fake news. He went after everyone.

As for Reid, he called her “the worst.” A few seconds later, he did a complete about-face and singled me out. “I can’t believe how nice you are today. Go ahead, give me a question,” he said.

I did not take the bait. He already showed he wanted to fight. But I wanted answers. I returned to my first question. Noticing that Trump went on the attack whenever Mueller’s name was mentioned, I did not mention it while drilling down. I said, “Thank you. My question, Mr. President, is do you believe that even though he backed away from it, that you, after you leave office, could face indictment for obstruction?”

“No, because we did nothing wrong. The answer is very simple. Nothing was done wrong. This was all a big hoax. And if you look at it today, nothing was done wrong,” Trump explained.

It was a frightening but typical answer. Trump defies all facts and to the loyal base plays the martyr. Whether or not Trump actually believes his rhetoric, others will and he knows it.

Therefore it remains incumbent on the press, as Stetler pointed out, to push back.

Trump's victory lap, as some labeled it, lasted a little under 20 minutes and then he was off to Wheeling, West Virginia for another love fest with supporters. And we are left trying to compare the stoic professional demeanor of Robert Mueller to the bombast of Donald Trump.

We framed it as a horse race or ball game because Trump did, and that is far simpler to do than what reality demands. Part of the problem is the press, but it is also the public, which has become so enamored of passion without thought, that we cannot appreciate the logic and thorough nature of a thinker compared to the sideshow barker antics of the president. The public demands winners and losers. Plain and simple. If we as reporters do not frame the issues properly, then we all suffer when politicians frame the issues to suit their own ends. We all lose.

The president and his minions, in an attempt to obfuscate the facts, have tried to make it about those who deliver facts to the public. Shooting the messenger is an old method, but one that Trump has honed to a fine art. He accuses us of bullying him and government representatives. He calls us rude. He says we are the problem. Meanwhile, he and his representatives are the government. They have the power over other's lives. We do not. We have nothing but the ability to ask questions and write stories.

If you don't like us, then you can change the channel or not read us. There are plenty of news sources out there and everyone seems to pick someone who speaks to their own philosophical cul de sac. Trump knows this and exploits it. He can stand in the South Lawn and attack dozens of journalists for asking questions. He can then claim he's done nothing wrong, despite ample factual evidence to the contrary and those who support him will fall in line and batter the facts with their own "alternative facts."

The Trump administration has never wavered from this approach. They love the heat and hate the light and the nation remains as divided as ever as a result. Watching him flail away at us on the South Lawn after Mueller's testimony drove home one truth Trump cannot hide

no matter how he dances and no matter who he yells at: He's scared. As Mueller's testimony showed, he should be.

Exhibit 27

POLITICO



POLITICO



Rep. Greg Gianforte (R-Mont.) speaks as President Donald Trump looks on during a campaign rally in Missoula on Thursday.

WHITE HOUSE

Trump on Gianforte: 'Any guy who can do a body slam is my kind of guy'

By BRENT D. GRIFFITHS | 10/18/2018 11:07 PM EDT

President Donald Trump on Thursday praised Rep. Greg Gianforte's body slamming a reporter in 2017, saying that anyone who did such a thing was "my kind of guy."

"Never wrestle him, you understand that?" Trump said of the Montana Republican, eliciting loud cheers during a political rally in Missoula, Mont. "Any guy who can do a body slam is my kind of guy."

"I was in Rome with a lot of the leaders from other countries talking about all sorts of things and I heard about it, and we endorsed Greg very early, but I heard that he had body slammed a reporter," Trump continued, speaking about the assault on

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Since he was a candidate for the presidency, Trump has complained of “fake news,” harassed individual outlets and journalists on Twitter, and labeled the media as a whole the “enemy of the people.” Trump’s praise of Gianforte’s actions comes as his administration continues to avoid blaming senior officials in Saudi Arabia for the kingdom’s role in the presumed death of Jamal Khashoggi, a Saudi dissident journalist.

John Mulholland, editor of the Guardian US, said in a statement that Trump’s praise of Gianforte runs the risk of inspiring further violence against journalists and called the president’s rhetoric an “attack on the First Amendment.” He added that Trump should apologize for his comments.

“To celebrate an attack on a journalist who was simply doing his job is an attack on the first amendment by someone who has taken an oath to defend it,” Mulholland said. “In the aftermath of the murder of Jamal Khashoggi, it runs the risk of inviting other assaults on journalists both here and across the world where they often face far greater threats. We hope decent people will denounce these comments and that the president will see fit to apologize for them.”

Morning Media

☑ guide to the media circus — weekday mornings, in your inbox.

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At the time, then-candidate Gianforte’s staff blamed Jacobs for the episode, but later evidence showed that Gianforte yelled at Jacobs, asking him to leave, then tackled him to the ground, which broke Jacobs’ glasses. The entire scuffle started when Jacobs tried to ask Gianforte for his thoughts on the House Republicans’ plan to repeal Obamacare, an issue on which he had avoided publicly declaring a position.

For his actions, Gianforte pleaded guilty to a misdemeanor assault charge and was sentenced to 40 hours of community service and 20 hours of anger management, as well as a \$385 fine.

In a deal with Jacobs, the Montana Republican also promised to make a \$50,000 donation to the Committee to Protect Journalists, which promotes freedom of the press.

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Exhibit 28

Politics

White House bans four journalists from covering Trump-Kim dinner because of shouted questions

By [Philip Rucker](#) and
[Josh Dawsey](#)
February 27

HANOI — The White House abruptly banned four U.S. journalists from covering President Trump’s dinner here Wednesday with North Korea’s Kim Jong Un after some of them shouted questions at the leaders during their earlier meetings.

Reporters from the Associated Press, Bloomberg News, the Los Angeles Times and Reuters were excluded from covering the dinner because of what White House press secretary Sarah Sanders said were “sensitivities over shouted questions in the previous sprays.” Among the questions asked of Trump was one about the congressional testimony of his former attorney Michael Cohen.

The White House’s move to restrict press access was an extraordinary act of retaliation by the U.S. government, which historically has upheld the rights of journalists while a president travels overseas. It was especially remarkable because it came during Trump’s meeting with the leader of a totalitarian state that does not have a free press.

Trump’s exchanges with Kim were being covered by the standard 13-member traveling White House press pool, but ahead of the dinner, Sanders sought to exclude all reporters from the pool and permit only the photographers and television crew.

After loud pushback, including from photojournalists who protested, Sanders allowed a single reporter in the pool for the dinner: Vivian Salama of the Wall Street Journal, who was serving as the print pooler and did not ask a question at the dinner. In addition, at least two members of the North Korean media contingent, a photographer and cameraman, were seen covering the dinner.

Reporters for the three wire services, as well as a second print pooler, were excluded. They included two journalists who had asked Trump questions in the earlier appearances: Jonathan Lemire of the AP and Jeff Mason of Reuters. Also excluded were Justin Sink of Bloomberg and Eli Stokols of the Los Angeles Times.

In a statement, Sanders said: “Due to the sensitive nature of the meetings we have limited the pool for the dinner to a smaller group, but ensured that representation of photographers, TV, radio and print Poolers are all in the room. We are continuing to negotiate aspects of this historic summit and will always work to make sure the U.S. media has as much access as possible.”

Sanders did not specify whether the White House was retaliating against journalists who asked questions at the request of Trump or of Kim or the North Korean delegation. Asked by The Washington Post to clarify, Sanders referred to her written statement.

Journalists in the pool asked Sanders repeatedly whether North Korea was responsible for the White House's decision to curb access, but she declined to give a direct answer. "I wouldn't say that," she said, according to two people present for the discussions.

Olivier Knox, president of the White House Correspondents' Association, said in a statement that the group "strenuously objects to the capricious decision to exclude some journalists from a press encounter with President Trump and Chairman Kim."

"This summit provides an opportunity for the American presidency to display its strength by facing vigorous questioning from a free and independent news media, not telegraph weakness by retreating behind arbitrary last-minute restrictions on coverage," Knox continued. "We call on the White House to not allow a diminution of the previously agreed-to press complement for the remainder of the summit."

Lauren Easton, a spokeswoman for the AP, said in a statement: "The Associated Press decries such efforts by the White House to restrict access to the president. It is critically important that any president uphold American press freedom standards, not only at home but especially while abroad."

Norman Pearlstine, executive editor of the Los Angeles Times, said in a statement: "Previous administrations have often intervened to protect press access when foreign leaders have tried to limit coverage of presidential meetings abroad. The fact that this White House has done the opposite and excluded members of the press provides another sad example of its failure to uphold the American public's right to see and be informed about President Trump's activities."

The move came a day after the U.S. press corps was kicked out of its filing center in Hanoi at the request of the North Korean entourage. The White House booked conference facilities at the Melia hotel as a press workspace, paid for by news organizations, but the hotel in the heart of the city also happened to be where Kim and his delegation decided to stay. As Kim's motorcade headed toward Hanoi on Tuesday, Vietnamese officials suddenly booted the U.S. media from the hotel and relocated their operations to a separate site sharing space with the international press corps.

During Trump's first visit with Kim on Wednesday night, American reporters asked Trump four questions during two brief photo opportunities; they asked Kim none. Eight North Korean reporters were also present for the summit — the entirely male contingent wore pins celebrating Kim Jong Un and were dressed alike — but they asked no questions.

When Trump and Kim first shook hands, Mason asked whether Trump had walked back his vow to denuclearize the Korean Peninsula. "No," the president replied.

Lemire asked whether he would declare an end to the Korean War, to which Trump replied, “We’ll see.”

A few minutes later, when Trump and Kim sat down for their one-on-one meeting, Lemire asked Trump whether he had a response to Cohen’s testimony. Trump shook his head and did not answer.

Trump has long complained about reporters asking him questions at photo opportunities, especially when he is in the presence of foreign leaders; aides have said he views it as disrespectful and lacking in decorum. Trump has called the mainstream media “the enemy of the people,” and the White House occasionally has punished reporters for their questioning, including CNN’s Jim Acosta and Kaitlan Collins.

This was not the first time Lemire and Mason had asked uncomfortable questions of Trump on foreign soil. Both posed sharp questions to the president at his 2018 Helsinki news conference alongside Russian President Vladimir Putin. Trump later complained to aides about their questions, although he has since granted interviews to both reporters.

At Wednesday’s dinner with Kim, Trump made small talk with the press pool. “Everybody having a great time?” he asked.


After his press secretary kicked the four reporters out of the pool, Trump joked to Kim that the “media make us look very good!” The president also pointed to photojournalist Doug Mills of the New York Times and told Kim he was “one of the great photographers of the world.”

Past administrations have struggled to balance access for U.S. reporters as presidents have met with authoritarian regimes, including China, that have sought to limit the number of reporters in the room. When [President Barack Obama met with Chinese Vice Premier Wen Jiabao](#) on the sidelines of a regional summit in Bali in 2011, the White House barred wire services and a newspaper reporter from the photo op, allowing in only news photographers. That drew protests on the spot from the press pool, including a Washington Post reporter.

In 2009, when Obama made his first visit to Beijing, he held a news conference with China’s then-president, Hu Jintao, at which reporters from both countries were not allowed to ask questions. During a trip by Vice President Joe Biden to Beijing in 2011, U.S. reporters were ushered out of a meeting by Chinese security officials as Biden was still making his opening remarks, [leading to a scuffle](#).

David Nakamura contributed to this report.

Philip Rucker

Philip Rucker is the White House Bureau Chief for The Washington Post. He previously has covered Congress, the Obama White House, and the 2012 and 2016 presidential campaigns. Rucker also is a Political Analyst for NBC News and MSNBC. He joined The Post in 2005 as a local news reporter. [Follow](#) 

Josh Dawsey

Josh Dawsey is a White House reporter for The Washington Post. He joined the paper in 2017. He previously covered the

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Exhibit 29

The Fix

‘You’re a very rude person.’ ‘That’s enough.’ ‘Sit down.’ Trump’s news conference turns hostile.

By [Lindsey Bever](#)

November 7, 2018

UPDATE: *The White House suspended Jim Acosta’s press pass hours after the CNN correspondent tangled with the president.*

President Trump lashed out at journalists during an afternoon press briefing, calling some of them “hostile,” instructing them to sit down and telling a CNN reporter, “You are a rude, terrible person.”

The heated exchange occurred Wednesday when [CNN reporter Jim Acosta](#) continued to [question Trump after the president dismissed him](#) during a news conference about the 2018 midterm elections. Acosta had brought up the Central American migrant caravan, asking the president why he characterized it as “an **invasion**.”

“I think you should let me run the country, you run CNN and if you did it well, your ratings would be much better,” Trump told Acosta.

Then when Acosta tried to question Trump about the Russia investigation, the president shouted: “That’s enough. That’s enough. That’s enough. That’s enough,” telling him to “put down the mic.”

Trump then told the reporter: “CNN should be ashamed of itself having you working for them. You are a rude, terrible person. You shouldn’t be working for CNN. ... You’re a very rude person. The way you treat Sarah Huckabee is horrible. And the way you treat other people are horrible. You shouldn’t treat people that way.”

NBC News reporter Peter Alexander tried to stand up for Acosta, saying he is a “diligent reporter.” Trump responded: “Well, I’m not a big fan of yours, either.”

The White House did not immediately respond to a request for comment.

Trump has repeatedly clashed with the media, especially CNN, lashing out at reporters and calling their stories “fake news.” As [The Washington Post’s Elise Viebeck reported](#), Trump snapped at yet another reporter later in the news conference after she noted that the president had once called himself a “nationalist” and asked him whether his embrace of “nationalism” is supporting white nationalists.

“I don’t know why you’d say that — that’s such a racist question,” Trump told PBS Newshour’s White House correspondent Yamiche Alcindor, who is black.

“Why do I have my highest poll numbers ever with African Americans?” he said. “Why do I have among the highest poll numbers with African Americans? I mean, why do I have my highest poll numbers?”

“That’s such a racist question,” he added. “Honestly, I know you have it written down and you’re going to tell me. Let me tell you, that’s a racist question.”



Yamiche Alcindor
@Yamiche

I asked President Trump what he thinks of people seeing his rhetoric as emboldening white nationalists and whether he was concerned that Republicans would be seen as supporting white nationalists.

His response: "That's a racist question."

62.5K 2:18 PM - Nov 7, 2018

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Yamiche Alcindor
@Yamiche

A note: I followed up the president calling my question "racist" with a policy question about his proposed middle class tax cut because that's what journalists do. We press on. We focus on the privilege of asking questions for a living. We do the work.

67.3K 2:42 PM - Nov 7, 2018

[12.9K people are talking about this](#)

Then it continued.



Maggie Haberman
@maggieNYT

Folks who are complaining about the media right now should bear in in mind that Trump is now getting snappish with [@johngizzi](#). This is not a preening media thing.

533 2:10 PM - Nov 7, 2018

[164 people are talking about this](#)



Philip Rucker
@PhilipRucker

This Trump news conference is going off the rails. President is losing his cool and snapping at reporters, from [@Acosta](#) to [@PeterAlexander](#) to [@AprilDRyan](#).

17.7K 1:33 PM - Nov 7, 2018

[6,480 people are talking about this](#)



Jim Acosta

[@Acosta](#)

Many thanks to my friend [@PeterAlexander](#)
[twitter.com/PhilipRucker/s...](https://twitter.com/PhilipRucker/status/1061111111111111111)

Philip Rucker [@PhilipRucker](#)

This Trump news conference is going off the rails. President is losing his cool and snapping at reporters, from [@Acosta](#) to [@PeterAlexander](#) to [@AprilDRyan](#).

37.7K 1:42 PM - Nov 7, 2018

[10.6K people are talking about this](#)

Following the confrontations, CNN [said in a statement](#) on Twitter that Trump's "ongoing attacks on the press have gone too far."

"They are not only dangerous, they are disturbingly un-American," according to the statement. "While President Trump has made it clear he does not respect a free press, he has a sworn obligation to protect it. A free press is vital to democracy, and we stand behind Jim Acosta and his fellow journalists everywhere."

CNN President Jeff Zucker reportedly said in a memo to employees Wednesday that "this organization believes fiercely in the protections granted to us by the First Amendment, and we will defend them, and you, vigorously, every time."

"I want you to know that we have your backs," Zucker wrote, according to [Hollywood Reporter](#).

Amid the chaos, Sen. Lindsey O. Graham (R-S.C.) criticized the White House press corps.

"It's apparent to me the White House press corps lives in a bubble," [he said on Twitter](#), "and the way they are conducting themselves today will do NOTHING to improve their standing with the American people."

David Brody, a reporter with the Christian Broadcasting Network, agreed, [saying](#) the "mainstream media should be ashamed."



David Brody

[@DavidBrodyCBN](#)

The mainstream media should be ashamed of themselves.

Certain liberal reporters became totally unhinged today. Jim Acosta wouldn't give up the mic, April Ryan standing up without a mic and so many more examples. No wonder the media is disliked in this country. Entitled?

182 1:35 PM - Nov 7, 2018

[121 people are talking about this](#)

Trump ended the lengthy news conference by telling the assembled journalists: "I'm very honored to be with all of you. . . . Hopefully, the tone can get a lot better. And I really believe it begins with the media."

But, he added: "I do fight back."

Read more:

[A reporter unwittingly left a voice mail for a GOP candidate. She was fired for what she said.](#)


[‘Fox & Friends’ scolds Trump over ongoing ‘enemy of the people’ crusade](#)

[Opinion: Not praising Trump enough is now ‘fake news’](#)

[Package-bomb suspect kept list of 100 possible targets, including CNN](#)

[Opinion: Memo to the media: Stop spreading Trump’s fake news](#)

Lindsey Bever

Lindsey Bever is a general assignment reporter for The Washington Post, covering national news with an emphasis on health. She was previously a reporter at the Dallas Morning News. [Follow](#) 

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Exhibit 30

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

- - - - - x

CABLE NEWS NETWORK, INC., et al., CA No. 1:18-cv-02610-TJK

Plaintiffs, Washington, D.C.
v. Friday, November 16, 2018
10:00 a.m.

DONALD J. TRUMP, et al.,

Defendants.

- - - - - x

TRANSCRIPT OF MOTION HEARING
HELD BEFORE THE HONORABLE TIMOTHY J. KELLY
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Plaintiffs: Theodore J. Boutrous, Jr., Esq.
Joshua S. Lipshutz, Esq.
Anne M. Champion, Esq.
GIBSON, DUNN & CRUTCHER LLP
333 South Grand Avenue
Los Angeles, CA 90071
(213) 229-7804

For the Defendants: James M. Burnham, Esq.
Michael H. Baer, Esq.
Eric R. Womack, Esq.
Joseph E. Borson, Esq.
U.S. DEPARTMENT OF JUSTICE
Civil Division
950 Pennsylvania Avenue, NW
Washington, DC 20530
(202) 353-5049

Court Reporter: Timothy R. Miller, RPR, CRR, NJ-CCR
Official Court Reporter
U.S. Courthouse, Room 6722
333 Constitution Avenue, NW
Washington, DC 20001
(202) 354-3111

Proceedings recorded by machine shorthand; transcript
produced by computer-aided transcription.

P R O C E E D I N G S

THE DEPUTY CLERK: Your Honor, this is civil matter 18-2610, Cable News Network, Incorporated, et al., v. Donald J. Trump, et al.

Will counsel please approach the lectern and state your appearance for the record.

MR. BOUTROUS: Good morning, Your Honor. Theodore Boutrous for Plaintiffs CNN and Jim Acosta.

THE COURT: Good morning, sir.

MS. CHAMPION: Good morning, Your Honor. Anne Champion from Gibson Dunn for Plaintiffs CNN and Jim Acosta.

MR. LIPSHUTZ: Good morning, Your Honor. Joshua Lipshutz from Gibson Dunn for Plaintiffs CNN and Jim Acosta.

THE COURT: Good morning.

MR. BURNHAM: Good morning, Your Honor. James Burnham here on behalf of the defendants, along with Michael Baer, Eric Womack and Joseph Borson.

THE COURT: All right. Good morning to you all.

We are here for an oral ruling on the plaintiffs' application for a temporary restraining order.

And I'd better get some water right away here.

(Brief pause.)

On November 7th, 2018, President Trump held a news conference at the White House. Soon after it started, he called on Plaintiff Acosta, a reporter for CNN, to take a

1 question from him. After Mr. Acosta asked several questions
2 about the caravan of migrants heading to the U.S.-Mexican
3 border, the President indicated that he wanted to move on to
4 call on another reporter but Mr. Acosta would not be seated
5 and continued trying to ask his question and then he would
6 not give up the microphone, even when approached by an
7 intern employed by the White House Press Office who
8 attempted to retrieve it from him. The President made
9 several comments toward Mr. Acosta while this happened,
10 including, You are a rude, terrible person, and, When you
11 report fake news which CNN does a lot, you are an enemy of
12 the people. Eventually, Mr. Acosta did relinquish the
13 microphone.

14 That night, his Secret -- the Secret Service asked
15 Mr. Acosta to relinquish his hard pass, his credential that
16 allows him access to the White House press facilities. That
17 same evening, the White House Press Secretary, Sarah
18 Sanders, posted a video on Twitter purporting to show the
19 exchange between Mr. Acosta, the intern and the President.
20 In a tweet, Ms. Sanders cited the conduct in the video as
21 the reason that Mr. Acosta's hard pass had been revoked. In
22 a tweet, she characterized Mr. Acosta as placing her hand --
23 his hands on the intern and she also asserted that Mr.
24 Acosta had been disrespectful to his colleagues to not allow
25 them to -- the opportunity to answer a question.

1 The next day, on November 8th, CNN sent a letter
2 to the White House requesting that Ms. -- the reporter's
3 credentials be reinstated immediately. CNN alleged that the
4 White House simply did not like the content of the questions
5 posed to the President and threatened to take legal action
6 if the revocation was not reversed.

7 The next day, on November 9th, the President
8 suggested that other reporters might have their credentials
9 revoked and that reporters must treat the White House with
10 respect and treat the presidency with respect and he also
11 conceded that Mr. Acosta's -- but he also conceded that Mr.
12 Acosta's conduct toward the Press Office intern had not been
13 overly horrible.

14 Then the long holiday weekend intervened. And on
15 the morning of Tuesday, November 13th, CNN and Mr. Acosta
16 filed this lawsuit and moved for a temporary restraining
17 order.

18 That morning, after -- the same morning, after the
19 suit was filed, Ms. Sanders issued a written statement
20 setting forth reasons for the revocation of Ms. -- Mr.
21 Acosta's hard pass. It read: We have been advised that CNN
22 has filed a complaint challenging the suspension of Jim
23 Acosta's hard pass. This is just more grandstanding from
24 CNN and we will vigorously defend against this lawsuit.
25 CNN, who has nearly 50 additional hard pass holders, and Mr.

1 Acosta is no more or less special than any other media
2 outlet or reporter with respect to the First Amendment.
3 After Mr. Acosta asked the President two questions, each of
4 which the President answered, he physically refused to
5 surrender a White House microphone to an intern so that
6 other reporters might ask their questions. This was not the
7 first time this reporter had -- has inappropriately refused
8 to yield to other reporters. The White House cannot run an
9 orderly and fair press conference when a reporter acts this
10 way which is neither appropriate nor professional. The
11 First Amendment is not served when a single reporter, of
12 more than 150 present, attempts to monopolize the floor. If
13 there is no check on this type of behavior, it impedes the
14 ability of the President, the White House staff and members
15 of the media to conduct business.

16 To obtain a temporary restraining order, the
17 plaintiffs must clearly demonstrate, one, a likelihood of
18 success on the merits of their claim; two, a likely
19 irreparable harm in the absence of preliminary relief;
20 three, a balance of the -- that the balance of the equities
21 is in their favor; and, four, that the TRO is in the public
22 interest. And where the Government is the party opposing
23 the TRO, the Court merges the latter two factors into a
24 single inquiry.

25 Much of our discussion at the hearing the other

1 day concerned the applicability or inapplicability of the
2 D.C. Circuit case Sherrill v. Knight. I'm going to first
3 talk about the likelihood of success of [sic] the merits
4 with regard to the plaintiffs' Fifth Amendment due process
5 claim.

6 Much of our discussion at the hearing concerned
7 the applicability of Sherrill v. Knight. I've read the case
8 closely and I think it's fair to conclude, as the Government
9 argued, that there are at least some portions of it that
10 plaintiffs would rely on that are fairly characterized as
11 dicta, but if Sherrill stands for anything at all, I think
12 it's unavoidable to conclude that it -- to conclude anything
13 other than it stands for the Fifth Amendment's due process
14 clause protects a reporter's First Amendment liberty
15 interest in a White House press pass. Whether that's a
16 holding I agree with or not is another thing, but that is
17 not relevant. The case has not been abrogated and, as a
18 district judge, I must apply the precedent of this circuit
19 as I see it.

20 So let me quote from Sherrill. Quote, In our
21 view, the procedural requirements of notice and the factual
22 basis for denial and opportunity for the applicant to
23 respond to these and a final written statement of the
24 reasons for denial are compelled by the foregoing
25 determination that the interest of a bona fide Washington

1 correspondent in obtaining a White House press pass is
2 protected by the First Amendment. This First Amendment
3 interest undoubtedly qualifies as liberty which may not be
4 denied without due process of law under the Fifth Amendment.

5 A few more words about Sherrill before I move on.

6 The Government argued that the holding of Sherrill
7 is limited to Secret Service restrictions based on security
8 concerns, and the Government points out there's nothing in
9 the record here that the security of the President or the
10 White House is at issue, but Sherrill, as I read it,
11 provides no reason why the court's recognition of a First
12 Amendment interest in a press pass -- in a White House press
13 pass would turn on whether that decision to limit that
14 interest was made by the White House Press Office or the
15 Secret Service or any other part of the executive branch,
16 and the case suggests no reason to me why the due process
17 required to deny someone a pass would turn on a specific
18 component of the executive branch that made that decision.
19 The court was very clear that the basis of this interest was
20 rooted in the First Amendment and not the decision of any
21 part of the executive branch to agree that Sherrill should
22 be granted the press pass.

23 The Government also made the point that there is
24 case law for the proposition that the public doesn't have a
25 general First Amendment right to enter the White House

1 grounds. I have no quarrel with that at all, but Sherrill
2 holds that once the White House opens a portion of it up to
3 reporters for their use, some kind of First Amendment
4 liberty interest protected by a due process right is
5 created, and I simply have no choice but to apply that
6 precedent here.

7 The Government also argued that some of the
8 factual underpinnings of Sherrill had changed and that
9 today, the White House routinely exercises discretion in
10 different ways, giving out hard passes to certain
11 journalists aside from whatever review the Secret Service
12 undertakes for security purposes. I can see how that might
13 be relevant in examining the nature of whatever liberty
14 interest Sherrill holds is at stake here, but even assuming
15 that was a distinction that would make a difference in terms
16 of how I apply Sherrill, I don't have any evidence in the
17 record here; I don't have any declarations or sworn
18 statements that explain how that factual landscape has
19 shifted since Sherrill was decided.

20 And, finally, the Government makes the point that
21 the First Amendment does not restrict the ability of the
22 President to dictate the terms of how he chooses to engage
23 or not engage with any particular journalist. That seems
24 entirely correct to me, but nothing in the holding of
25 Sherrill relating to the Fifth Amendment due process right

1 it recognized contradicts that. In fact, Sherrill
2 explicitly recognizes the President's right to engage with
3 whomever he pleases. Certainly, he need not ever call on
4 Mr. Acosta again. But under Sherrill, as I read it, the
5 government must provide Mr. Acosta due process if it is to
6 revoke his hard pass. Accordingly, the likelihood that the
7 plaintiffs succeed on the First -- on the Fifth Amendment
8 claim hinges on whether the government provided adequate due
9 process to Mr. Acosta. The court in Sherrill held that this
10 process must include notice, an opportunity to rebut the
11 government's reasons and a written decision. And all the
12 court -- although the court in Sherrill did not have
13 occasion to address it, when an important interest is at
14 stake and when the government is able to provide this
15 process before deprivation, it generally must do so. There
16 is no evidence that one of the few exceptions to this rule
17 would apply here such as some kind of emergency. So I do
18 hold that plaintiffs have demonstrated a likelihood of
19 success on their claim that adequate process was not
20 provided to Mr. Acosta. Indeed, whatever process occurred
21 within the government is still so shrouded in mystery that
22 the Government could not tell me at oral argument who made
23 the initial decision to revoke Mr. Acosta's press pass --
24 his hard pass.

25 On the notice, as for notice, the Government

1 points to only one statement that could possibly constitute
2 prior notice to Mr. Acosta that his pass would be revoked,
3 the President's statements to him during the exchange at the
4 press conference on November 7th, but the President's
5 statements did not revoke -- did not reference Mr. Acosta's
6 hard pass at all, let alone that it would be revoked;
7 therefore, that statement cannot have put him on notice of
8 the government's intention to revoke it.

9 Now, it is true that the public and Mr. Acosta
10 were eventually provided two things. First, explanations as
11 to why his hard pass was revoked through Ms. Sanders's
12 tweets; and a written statement of explanation, apparently
13 prompted by this litigation, but given their timing and
14 their lack of connection to Mr. Acosta's opportunity to
15 rebut -- which we'll talk about in a moment -- these belated
16 efforts were hardly sufficient to satisfy due process.

17 As for Mr. Acosta's opportunity to be heard in
18 rebuttal, the Government points to the letter CNN sent to
19 the White House the day after his hard pass was revoked, but
20 this does not reflect a meaningful opportunity to rebut the
21 government's reasons for the revocation or to challenge the
22 appropriateness of the government's action. Indeed, anyone
23 can avail themselves of the mail, and there's nothing in the
24 record that demonstrates that whoever the decisionmaker --
25 the initial decisionmaker was in this case read or

1 considered the letter. And, of course, the letter was sent
2 after the revocation, not beforehand. The need for the
3 opportunity to be heard seems especially important in this
4 case when the record strongly suggests that one of the
5 initial specific reasons for the revocation cited by the
6 government -- that Mr. Acosta laid his hands on the White
7 House intern -- was likely untrue and was at least partly
8 based on evidence that was of questionable accuracy.

9 At oral argument, the Government made the point
10 that more process would not have helped here because the
11 ultimate decisionmaker -- I believe, is how the Government
12 referred to the President -- at a minimum, ratified this
13 action. Maybe that's so, but on the record before me which,
14 at this point, is devoid of evidence concerning who, in the
15 government, first reached this decision; how they reached
16 the decision; whether they considered CNN's letter or
17 whether they considered potential other responses by the
18 government, I simply cannot assume that that would be so.

19 So in light of all the above, I find that the
20 plaintiffs are likely to succeed on the merits of their
21 Fifth Amendment due process claim.

22 I'll now talk about irreparable harm with regard
23 to that claim.

24 The plaintiffs also must demonstrate that
25 irreparable harm will result in the absence of preliminary

1 relief. That harm must be both certain and great, and it
2 must be actual and not theoretical. Here, harm to Mr.
3 Acosta has already occurred. As already explained, he's
4 demonstrated a likelihood of success on the merits of his
5 claim that his Fifth Amendment due process rights were
6 violated such that his liberty interests were deprived;
7 therefore, I don't need to speculate or theorize as to
8 whether harm will occur absent preliminary relief, but for
9 plaintiffs to satisfy their burden, the harm must be
10 irreparable. Constitutional injuries are often considered
11 irreparable due to their very nature. Indeed, the D.C.
12 Circuit has held that, quote, Suits for declaratory and
13 injunctive relief against the threatened invasion of a
14 constitutional right do not ordinarily require proof of any
15 injury other than the threatened constitutional deprivation
16 itself, closed quote.

17 On the other hand, procedural due process injuries
18 do not necessarily cause irreparable harm when, for example,
19 the thing that is deprived is tangible property, because the
20 due process violation that led to that injury might be
21 reparable with money damages. Here, the procedural due
22 process violation at issue that has led to the deprivation
23 -- to a deprivation of what Sherrill requires me to
24 recognize as a liberty interest as opposed to a property
25 interest that's grounded in, quote, The First Amendment

1 guarantee of freedom of the press, closed quote.

2 Moreover, the First Amendment interests, as
3 recognized in Sherrill, were not vested merely in
4 publications or agencies. They were liberties of the
5 individual journalists themselves. For that reason, that
6 CNN may still send another journalist or other journalist to
7 the White House does not make the harm to Mr. Acosta any
8 less irreparable. Each day that he is deprived of that
9 interest without the process prescribed by the court in
10 Sherrill, he suffers a harm that cannot be remedied in
11 retrospect. The Court cannot restore his access to press
12 briefings that have already occurred or to conversations in
13 the White House press facilities that have already been had.

14 And so on this highly, highly unusual set of facts
15 and interests at stake, I do find that the plaintiffs have
16 met their burden of establishing that irreparable harm has
17 and will continue to occur in the absence of preliminary
18 relief.

19 The next factors are the balance of the equities
20 and the public interests.

21 In balancing the equities at stake, I find that
22 the harm to Mr. Acosta from sustaining an ongoing violation
23 of his Fifth Amendment due process rights outweighs the
24 government's interest in orderly, respectful press
25 conferences. This is especially so because the government

1 can serve its stated interest in other ways during this
2 litigation or perhaps until it is back before me arguing
3 that their due process obligations had been fulfilled.
4 Obviously, the balance of the equities would not likely have
5 come out this way if Mr. Acosta had been excluded for safety
6 or security reasons, in which case, my deference to the
7 executive equities would be far, far higher. But even in
8 this circumstance, I don't take lightly the executive
9 branch's weighty general interest in control of its White
10 House press facility, but the balance here is tipped by the
11 fact that Sherrill obligates me to recognize the violation
12 of Mr. Acosta's due process rights and the resulting impact
13 on his First Amendment interests. So in finding -- also, in
14 finding that these factors favor the plaintiffs, I have also
15 considered case law that suggests that constitutional
16 violations are always contrary to the public's interest.

17 So because the plaintiffs have shown a likelihood
18 that the government has violated Mr. Acosta's Fifth
19 Amendment rights under Sherrill, because the type of injury
20 he has suffered is irreparable and because the public
21 interest in the balance of equities favor granting a
22 temporary restraining order, I will grant the application
23 for a -- for the temporary restraining order here. I will
24 order the defendants immediately restore Mr. Acosta's hard
25 pass until further order of the Court or the restraining

1 order expires. And if, at some point after restoring the
2 hard pass, the Government would like to move to vacate the
3 restraining order on the grounds that it has fulfilled its
4 due process obligations, then it may, of course, do so and I
5 will promptly address that and then the remaining bases for
6 the TRO.

7 I want to emphasize the very limited nature of
8 today's ruling. In resolving this TRO, I haven't -- because
9 I've found that it must be granted on -- as to the due
10 process claim, I haven't had to reach the plaintiffs' First
11 Amendment claim at all in which they alleged that the
12 government engaged in viewpoint or content discrimination.
13 So I want to make very clear a couple of things. I have not
14 determined that the First Amendment was violated here; I
15 have not determined what legal standard would apply to the
16 First Amendment claim here; I have not determined the
17 specific nature of the First Amendment interest that
18 Sherrill recognizes -- or that Sherrill at least doesn't
19 describe but recognizes, yes; and I haven't determined what
20 portions of Sherrill, if any, would bind me on those
21 questions.

22 So let me turn to the parties, then, and suggest
23 that as far as procedurally moving forward goes, one -- the
24 avenue I thought of is to give you all some time to consult
25 with your clients; assess your positions; and come back

1 early next week -- perhaps Tuesday afternoon -- to see how
2 you all would like to proceed from here. I trust the --
3 this litigation will continue in a rapid pace. Either
4 party?

5 MR. BOUTROUS: Thank you. Thank you very much,
6 Your Honor.

7 That sounds like a good process to us. We can
8 confer. We may be able to just confer and then report back
9 Monday with the proposal and see if we can work out either a
10 briefing schedule for the preliminary injunction or
11 something else and, if not, we can just come back and see
12 you on Tuesday.

13 THE COURT: All right. So your proposal would be
14 a written joint report for the parties --

15 MR. BOUTROUS: Would that --

16 THE COURT: -- on Monday?

17 MR. BOUTROUS: Yeah. Would that work for the
18 Court?

19 THE COURT: All right. That's fine, if that's --
20 but I'd like to hear from Mr. Burnham.

21 MR. BURNHAM: Your Honor, I'd like to talk to our
22 clients. That should be okay, but I'd just like to talk to
23 our clients and come up with a proposal before we --

24 THE COURT: Absolutely. I mean, we can't have any
25 quicker turnaround than a joint report --

1 MR. BURNHAM: Right.

2 THE COURT: -- on Monday. So --

3 MR. BURNHAM: Right.

4 THE COURT: I mean, I --

5 MR. BURNHAM: The timing certainly works for us.

6 Thank you.

7 THE COURT: Fair enough. So I'll get that report.

8 Obviously, if you can agree on something, great; if you
9 can't agree, if you would still submit it jointly but just
10 lay out your respective positions on where we go from here,
11 I'll take that under advisement, and my hope is -- well,
12 depending on what you all agree to, if we need to come back
13 to court next week, even though it's the short week -- the
14 holiday -- I will be available to do that.

15 MR. BURNHAM: Okay. Thank you, Your Honor.

16 THE COURT: All right.

17 MR. BOUTROUS: We greatly appreciate it, Your
18 Honor.

19 THE COURT: All right.

20 MR. BOUTROUS: And then just procedurally, under
21 the TRO, we'll just proceed to get the hard pass back
22 immediately and have it reactivated. Thank you very much.

23 THE COURT: Yes. Is there any other -- anything
24 further -- else from the plaintiffs that you think I need to
25 address today before I turn to Mr. Burnham?

1 MR. BOUTROUS: I think that's it, Your Honor.

2 THE COURT: All right.

3 MR. BOUTROUS: Thank you.

4 THE COURT: Sir?

5 MR. BURNHAM: So Your Honor, under the local
6 rules, our opposition to the PI is due on Tuesday.

7 THE COURT: Okay.

8 MR. BURNHAM: Would it be okay, given all that's
9 going on, to suspend that deadline until we file our joint
10 status report?

11 THE COURT: Yeah. I assume the plaintiffs --

12 MR. BURNHAM: I assume --

13 THE COURT: -- would agree to that.

14 MR. BURNHAM: We haven't spoken about it.

15 THE COURT: Yes.

16 MR. BOUTROUS: That's fine with --

17 MR. BURNHAM: Okay.

18 MR. BOUTROUS: That's fine with us, Your Honor.

19 THE COURT: Yeah. So that deadline certainly will
20 be, you know, held in abeyance --

21 MR. BURNHAM: Thank you, Your Honor.

22 THE COURT: -- vacated until I get your report and
23 we'll see where we go from there.

24 MR. BURNHAM: Thank you, Your Honor.

25 THE COURT: All right.

1 MR. BOUTROUS: Thank you.

2 THE COURT: If there's nothing further, then,
3 counsel's dismissed.

4 THE DEPUTY CLERK: All rise. This Honorable Court
5 is adjourned.

6 (Proceedings concluded at 10:28 a.m.)

7 * * * * *

8 CERTIFICATE OF OFFICIAL COURT REPORTER

9 I, TIMOTHY R. MILLER, RPR, CRR, NJ-CCR, do hereby certify
10 that the above and foregoing constitutes a true and accurate
11 transcript of my stenographic notes and is a full, true and
12 complete transcript of the proceedings to the best of my
13 ability, dated this 16th day of November 2018.

14 /s/Timothy R. Miller, RPR, CRR, NJ-CCR
15 Official Court Reporter
16 United States Courthouse
17 Room 6722
18 333 Constitution Avenue, NW
19 Washington, DC 20001
20
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22
23
24
25